

The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform

Leila Al-Atraqchi

A Thesis

in the

Humanities

Doctoral Program

Presented in Partial Fulfillment of the Requirements
For the Degree of Doctor of Philosophy at
Concordia University

March 2003

© Leila Al-Atraqchi



National Library
of Canada

Acquisitions and
Bibliographic Services

395 Wellington Street
Ottawa ON K1A 0N4
Canada

Bibliothèque nationale
du Canada

Acquisitions et
services bibliographiques

395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file Votre référence

Our file Notre référence

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

0-612-77911-4

Canada

ABSTRACT

The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of Personal Status Law Reform

Leila Al-Atraqchi, Ph.D.
Concordia University, 2003

Since the early 20th Century, Egyptian modernists and feminists have been pushing for reform of the Personal Status Law. The Egyptian Women's Movements have undergone several changes in perspectives and strategies in meeting their most prominent demand, reform of the Personal Status Law. Yet, despite the multitude of strategies adopted for bringing about the reform, the women's movements have never been wholly successful. However, a glimmer of hope began to appear in the 1990s with the re-emergence and spread of the Islamist women's movement in Egypt. Working from within the framework of Islam and the indigenous culture, the women involved have been more successful in engaging the establishment and more conservative elements of society in a legitimate dialogue in the public sphere on the need to reform the Personal Status Law in an attempt to grant more rights for women. Furthermore, it appears that they have succeeded in engaging the often neglected, albeit instrumental, informal public sphere in the debates on the necessity of Personal Status Law reform. After introducing an overview of a century of shifting strategies in women's demand for Personal Status Law reform, this thesis will examine how Islamist, as well as secular, women's groups and individual activists (feminists) have been using alternative channels and the framework of Islam to mobilize toward legal reform. In the process, I will be examining the most recent

Personal Status Law reform of 2000 and its significance as a partial outcome of the changing articulation of women's rights by Islamist women activists.

Dedication

I dedicate this dissertation to my mother and father in gratitude for their unparalleled love, patience, support and wisdom. I owe them everything I am and ever will be, and everything I have and ever will have. And to my brother, my intellectual mentor, for being an inspiration and always providing mental stimulation. And finally, to my love, my dearest husband, who held my hand in the hardest of hours and whose love and support have motivated me throughout this long journey.

Contents

Chapter One: Introduction.....	1
Chapter Two: Research Methodology.....	25
Chapter Three: Theoretical Framework.....	75
Chapter Four: Personal Status Law: A Case Study in Shifting Legal Strategies.....	117
Chapter Five: A Century of Personal Status Law Reform and Debates). (1890-1990).....	165
Chapter Six: Emerging Perspectives of Women Activists Toward Personal Status Law Reform (1990s).....	225
Chapter Seven: Dominant Political Forces and the Debates on Personal Status Law Reform 2000 in the Public Sphere.....	277
Chapter Eight: Feminist Debates on Personal Status Law Reform 2000 in the Public Sphere.....	340
Chapter Nine: The Discourse on Personal Status Law in the Informal Public Sphere.....	367
Chapter Ten: Conclusion.....	394
References.....	414
Appendices.....	447
Glossary.....	541

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER ONE:
Introduction**

Chapter 1 Introduction

The Main Questions of Research

Since the early 20th Century, Egyptian modernists and feminists have been pushing for reform of the Personal Status Law. (El-Alami 1992; Esposito 1982; Graham, Hillard and Kamal ElDin 1985; Hatem 1993; Stowasser 1987, 1994) The Egyptian women's movements have undergone several changes in perspectives and strategies in meeting their most prominent demand for legislative reform, namely that of the Personal Status Law. Yet, despite the multitude of strategies adopted for bringing about the reform, the women's movements have never been wholly effective. However, a glimmer of hope began to appear in the 1990s with the re-emergence and spread of Islamist women's movement in Egypt.

Over the past decade, a relatively new trend of women working from within the framework of Islam and the indigenous culture has been more effective in engaging the establishment and more conservative elements of society in a "legitimate" dialogue in the public sphere on the need to reform the Personal Status Law thus winning more rights for women. Furthermore, it appears that they have succeeded in engaging the often neglected, albeit instrumental informal public sphere in the debates on the necessity of Personal Status Law reform.¹

¹ Since the publication of Jurgen Habermas' *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* in 1962 — and its subsequent translation into English in 1989 — historians have renewed their interest in the role of public and private communications as an important source of information about how public opinion is expressed in a burgeoning public sphere. Briefly defined, the public sphere was the intellectual space where private individuals, making use of Enlightenment reason, made personal decisions on public affairs. In other words, the emergent public sphere marked the beginning of participatory politics. (Calhoun, 1992; Habermas, 1962; Meehan, 1995) It is important to note that Habermas' public sphere is far too limited in scope for he claimed that the basis for growth was bourgeois and secular in nature. The activities of the Jansenists¹, however, demonstrate a

For this research, I intend to provide an overview of a century of shifting strategies in women's demand for Personal Status Law reform. This thesis will examine how Islamist, Muslim and secular feminists, women's groups and individual activists, have been using alternative channels and the framework of Islam to mobilize toward legal reform.²

Women activists whom I identify as Muslim feminists use Islamic sources, such as the Quran and the *Sunna* (the Prophet's actions and sayings), to show that the discourse of equality between men and women is valid, within Islam. Muslim feminists also try to steer a middle course between interpretations of socio-political and cultural realities according to Islam and a human rights discourse.³ Meanwhile, I use the term Islamist feminists to refer to Islamist women who are aware of a particular oppression of women, and they actively seek to rectify this oppression by recourse to Islamic principles. Unlike the Muslim feminists, in the opinion of Islamist feminists, women are oppressed precisely because they try to be "equal" to men and are therefore being placed in unnatural settings and unfair situations, which denigrate them and take away their integrity and dignity as

public sphere that was religious in nature — where faith mattered more than reason — well into the 18th and even the 19th century. Moreover, in the past decade social and cultural historians have started unearthing the beginnings of informal political activity by seeking the roots of the public sphere. Following in the footsteps of its chief theoretician, Habermas, they have looked at a range of associational life. From the salons of Paris and coffeehouses of London to the religious discussion groups and free-time clubs of the 17th century Dutch Republic to the reshaping of family life in communities across the Middle East, they have sought to discover when and how the public came to have influence within the greater society. Women historians and feminists have joined in this endeavour, often concluding that women were largely excluded from many aspects of the public sphere. Hence the importance of the informal public sphere. For more detailed discussion of Habermas' theories, refer to Chapter 3 on Theoretical Framework.

² Although there is a sizable minority of Copts in Egypt, their personal status laws are governed by the Church and their own religion-based courts, which has usually been very strict and does not sanction divorce except in rare cases. Many Egyptian Copts have been following the debates on the Muslim Personal Status Law very closely, hoping that a liberalization of the law for the Muslim majority may potentially provide an inroad for reform of their own marriage and divorce laws.

³ *Sunna* means habit, practice, or action, norm and usage sanctioned by tradition. It refers to the sayings, practices and habits of Prophet Muhammad, whom Muslims believe is the final messenger of God. The *hadith* are reports of the *sunna*. The *sunna* is one of the two major legal sources of jurisprudence in Islam.

women. For example, women are ‘forced’ to go out and compete in the labour market — a task which means that women may come into contact with men (as in public transport, for example) in a humiliating and inappropriate way. (Karam 1998)

Whereas the Islamist feminists believe in Islam as a worldview and base their platform on an Islamist ideology that calls for the revival of Islamist thought and law in all spheres of life, Muslim feminists adopt Islamic discourse and use Islamic canon merely as a strategy to engage the traditional public sphere in a debate on the need to reform the Personal Status Law. This newly adopted tactic — it gained popularity in the 1980s with the emergence of the debate on the redrafting of the new marriage contract, which will be explained in greater detail in Chapter 4 — is merely a tactical strategy and does not reflect their pious or secular orientation. They are Muslim women and they are believers, but that is not what characterizes them as Muslim feminists. The characterization of “Muslim feminists” as used by Margot Badran, Azza Karam and Nadjé Al-Ali evokes John D. McCarthy and Mayer Zald’s discussion of Social Movement Theory and their description of “movement entrepreneurs” who invent new repertoires of contention and new stimuli to mobilization. (Morris and Mueller 1992)

These new “trends” of Muslim and Islamist feminism can be best explained using Sidney Tarrow’s discussion of contentious politics. (1998: 71) According to Tarrow, contentious politics is triggered when changing political opportunities and constraints create incentives for social actors who lack resources on their own. They contend through known repertoires of contention (such as Islamic revivalism in the case of the Muslim

and Islamist feminists) and expand on them by creating innovations at their margins.

When backed by dense social networks and galvanized by culturally resonant (*Sharia* and *Sunna*) symbols, contentious politics leads to sustained interaction with opponents. This sustained dialogue is part of the legitimization process for Muslim feminists.

Changes in political opportunities and constraints create the most important incentives for initiating new phases of contention. These actions in turn create new opportunities both for the original insurgents and for the latecomers, and eventually for opponents and power holders. In the case of the Egyptian women's movement, Muslim feminists have taken advantage of Islamic revivalism and used that opportunity to adopt a newly culturally resonant platform that demands legal reform based on a reinterpretation of Islamic law from a feminists standpoint.⁴ (Tarrow, 1998)

Thus, it becomes clear that Muslim feminists are not representative of a particular religious ideology or worldview, but more of an instrumental strategic reading of socio-political circumstances and political opportunity structure.⁵ This differentiation between Muslim and Islamist feminists is particularly significant in my argument as the main objective of my analysis of the women's movement's shifting strategies is to demonstrate that the strategy of the Muslim feminists has garnered Personal Status Law amendments for which past secular and Islamist activists had campaigned in vain.

⁴ See Chapter 3 for an expanded discussion of theoretical framework.

⁵ For in depth discussion of Social Movement Theory, refer to Morris and Mueller's *Frontiers in Social Movement Theory*, 1992.

The main aim of my research is to examine shifting strategies of the Egyptian women's movement toward legal reform, and subsequently the increasingly popular strategy of Muslim feminist to revert to Islamic canon and jurisprudence. In the process, I use the Personal Status Laws as a case study that exemplifies the tactical and innovative achievements of the Muslim feminist approach. In essence, the Personal Status Laws are used as a barometer to gauge the progress and productivity of the women's movement's shifting legal strategies.

Consequently — using the Personal Status Law as a case study — I examine the most recent Personal Status Law reform of 2000 and its significance as a partial outcome of the changing articulation of women's rights by Muslim women activists. In the process, I study the types of arguments presented in support and against reform of the Personal Status Law through the formal and informal public sphere by secularist, Islamist and Muslim feminists — activists and intellectuals alike. I also examine the role of Egyptian women, particularly Muslim feminists, working towards reforming the *Sharia*-based Personal Status Law, and reaffirming their rights.⁶ In particular, the research concentrates on the push for the recent (January 2000) passage of legislative reform of the Personal Status Law that were articulated and legitimated via an Islamist discourse. In doing so, I have also examined the role Islamist and Muslim feminism plays in this struggle, the

⁶ Islamic Law. The *Sharia* refers to the revealed and the canonical laws of Islam which are derived from two major legal resources of Islamic jurisprudence: (1) the Quran, the holy book of Islam which is believed by Muslims to be the direct word of God; and (2) the *Sunna*. General principles of *Sharia* are supposed to govern such matters as marriage, divorce, maintenance, paternity and custody of children for more than a billion Muslims around the world. This does not mean that identical principles apply everywhere or in the same manner. Clear variations exist not only because of significant theological, legal, and other differences among and within Muslim societies and communities, but also because *Sharia* principles are often in practice modified by customary practices, or as a matter of state policy.

leaders of this movement and their interaction with secular women's organizations and interests.

Addressing these issues will help determine whether Egyptian women have finally found an effective strategy for the articulation for their demands. Thus my main research questions are: What forces, or reasons, are behind the push and demand for reform? What role does Islamist, Muslim and secular feminism play in mobilizing for legal and social change? What are the implications of the recent movement of Egyptian women reinterpreting Islamic jurisprudence and the original texts, namely the Quran and *Hadith*? How are debates in the public sphere shaping legislative reform? How were debates surrounding the Personal Status Law reforms of 2000 shaped by the secularists, Muslim and Islamist women respectively? Which group's arguments had more impact on the public sphere — both formal and informal public spheres? To what extent was the introduction of the reform of the Personal Status Law a response to women's demands for legal reform in the area of family law?⁷ To what extent have past Egyptian feminist trends (Secular, Socialist, Nationalist, etc) managed to mobilize women at the grassroots level? And finally, have past women's movements' attempts at mobilization resulted in legislative reform? (Reform of the Personal Status Law may be used as a barometer to measure the effectiveness of certain legal strategies.)

⁷ Sometimes reforms, such as the repeal of the 1979 Personal Status Law, are contingent on demands by the Muslim Brotherhood and Jamaat Islamiyah, rather than those of women.

Scope of Dissertation

In the late nineteenth century, the Islamic modernist movement, which was led by Shaykh Mohamed Abduh (1831-1905), called for renewal and reform, advocating the practice of *ijtihad*, i.e. independent reasoning into religion and its interpretation in light of context and needs of the period.⁸ (Brown 1996) During the first half of the 20th century, the early Egyptian feminists and women's rights advocates — much the same way as Abduh and other reformists — including many who are today considered secularist — used the equitable spirit of Islam to frame their demands for social and legislative reform.

In the 1950s, however, as the clergy class and religion as a whole were marginalized by the Nasser regime [in 1952], we see for the first time a secular, and somewhat radicalized, women's movement campaigning for legislative reform, believing that social change would follow. This trend, spanning from much of the 1950s to the mid-1970s, abandoned the religious framework of their predecessors, because they no longer had to address their arguments and demands to the clergy — who until that point had directly overseen issues regarding the *Sharia* and the *Sharia*-based Personal Status Law. Rather, it was the secular, modernist Nasserite state that they were trying to win over. Although some scholars may argue that the new radicalized activism was merely a shift in strategy, the more popular view is that the radicalization and secularization of the women activists was reflective of the left-leaning, socialist — and even communist — ideology

⁸ The four *Sunni* schools of law had finalized the classical legal theories of Islamic jurisprudence by the 10th century and the doors to *ijtihad*, or interpretation of scripture had been closed by the legal jurists, meaning future generations were not free to offer their own interpretations and theories of Islamic jurisprudence and had to rely on the formulations and interpretations of the classical jurists. Although the *Shafi* school of law, which was operative in parts of Egypt, continued to use a more restricted form of *ijtihad* known as *qiyas* (analogical reasoning), it has had little impact on women's rights and status.

that was becoming more popular among the Egyptian intelligentsia at the time. (Abed Kotob and Sullivan 1999)

In the 1970s we see yet another shift in the direction and strategy of the Egyptian feminist movement. The Sadat regime's liberalization of the public sphere and the sanctioning of free association — with great limitations — stimulated increased participation by the Islamist groups (most notably the Muslim Brotherhood) in public discourse and politics. In order to enlist women to their ranks, Islamist men began to encourage women to take up the veil and join the Islamist movement as public activists. Through time, the women, who had been recruited by Islamist groups, had become radicalized and politicized, formulating their own platform, and campaigning for an improvement in the social and legal status of women, thus sowing the seeds for the intellectual movement that has become known, not un-contentiously, as Islamist feminism.

Since the 1980s, we have witnessed some liberalization on gender issues, and perhaps even political expediency in the Islamist movement. Even though the majority of the male Islamists call for women's return to the home, Islamist women continue to insist on women's rights in the public sphere. The public sphere is where social justice is defined and where the reinterpretation of needs and rights generates a recontextualization of needed institutional changes.

Islamist and Muslim feminists are comprised of Muslim women — whether members of the Islamist movement or independents — now attempting a feminist exegesis of the

Quran and *Sharia*.⁹ This new generation of Islamist and Muslim feminists are perceived by the masses, and even some conservatives, as ideologically correct, armed with knowledge of the religious texts, tradition and laws to launch feminist campaigns to improve the status of women. It means that women across a wide spectrum are attempting to maintain or increase their own roles in society and women's public presence in general. Whereas in the past conservative forces were using religion to marginalize women from public life, today many women are using religion to pursue their own growth, productivity and creativity in diverse professions. Women are struggling against retrogressive forces that have served to marginalize them in the past. The use of retrogressive forces in this context signifies conservative, traditional, and most often patriarchal segments of society.

More and more women are occupying roles, which conservatives would never have envisioned as appropriate for women, such as lawyers, parliamentarians, doctors, politicians and diplomats. This trend allows for a certain liberation from patriarchal dominance as well as carves out a niche for women in the Islamist movement.

The new generation of Islamist and Muslim feminists/activists have begun to question male dominance, often seeing it as transgressing the bounds of "correct" Islamic parameters. Although most Islamist women reject the term feminism, they are searching

⁹ Muslim feminists are women who push for women's liberation and the progressive reform of legislation effecting women through renewal within the whole field of Islamic jurisprudence — specifically through a contextual reinterpretation of Islamic scripture and original texts from a feminist stance.

for a means to express much of what feminism entails.¹⁰ Although they see themselves as part of the women's movement, many women activists in the Middle East reject being called feminists due to the negative connotation of the term. Conservative forces in society often brand feminists as "Western" and anti-religious.

The challenge is to liberate women without contravening the tenets and spirit of Islam, or at least the progressively interpreted Islam. The new struggle for women has been capturing the advocacy and practice by feminists and Islamists alike of women's roles in society as an inherent right and one legitimized by Islam by virtue of a new analytical construct. One question is how can the Islamist movement initiate women's liberation from within without provoking the wrath of the conservatives?

The new approach claims that a feminist vein seems to run through the Quranic text. Traditionally, the most hostile passages to women were selected and interpreted in a very misogynistic way by the man-made *Sharia*, thereby imposing male supremacy. Islamist progressive discourse is taking on the new guise of feminism within Islam. This discourse centers on a reexamination of early religious sources, texts and Islamic history to spawn a theory of women's liberation.

Women working from within the framework of Islam — at either the cultural or religious level — represent a very important ideological trend and offer an alternative strategy to

¹⁰Feminism is an effort to deal with inequality between men and women. Its basic premise is that in considering the rights of men and women, their physical differences should not affect the way they are treated legally, socially or politically. Working with this definition of feminist, it appears that Islamist and Muslim women's discourses are making new waves within Islam.

the liberal or socialist feminists who were often branded as traitors and agents to the West.¹¹ Women, as well as other modernist theologians (Engineer-Ali 1992; Hassan 1990; Wadud-Muhsin 1993, 1994) are trying to unveil a liberal theology in Islam by reviving the practice of *ijtihad*, or the reinterpretation of the Quran, which is (not without contention) a legitimate God-given right to the Muslim *umma*. Islamist feminists believe that even the progressive, liberal male interpreters have never examined the text from the point of view of women.

Despite forays into the reinterpretation of Islam and its emancipatory potential for women, in-depth examination of the impact of Islamist and Muslim feminism on the reform movement, including reform of the Personal Status Law, is not documented nor substantiated. The literature available regarding the influence of using the language of Islamic jurisprudence and original Islamic texts by feminists to promote favorable reform of the Personal Status Law is skimpy and journalistic at best. Thus I am proposing to examine the role of the Islamist and Muslim women's movement in bringing about the Personal Status Law reform (of January 2000) in Egypt. I will also investigate the extent to which they had managed to mobilize the public. By addressing these issues, I provide a much-needed analysis of how feminism working from within an Islamic framework actually furthers the cause of Egyptian women and achieves what their secular, modernist predecessors were unable to do, i.e. introduce progressive reforms to the Personal Status Law. Given that Islam — due to the surge of religious movements — is becoming an

¹¹ It is important to note that strategies are closely related to context. In the 1960s, secular, socialist feminists did not use the language of religion due to the marginalization of religion and the clergy by the state. Today, Islamist feminists are using religion to popularize a new vision that makes the introduction of reform possible.

important social force for change, it is providing an important context for discussion and these questions are becoming increasingly important in helping us understand the impact of this force on women in Egypt and the Muslim world in general.

Personal Status Law as a Case Study: Research Significance

Modernist Islamist discourse is taking on the new guise of feminism within Islam. This discourse centers on a reexamination of early religious sources, texts and Islamic history to spawn a theory of women's liberation. (Ask and Tjomsland 1998; Engineer 1992; Mernissi 1991, 1992, 1993, 1996; Hassan, Stowasser 1994; Wadud 1999) Recently, conservatives have been increasing their pressure on governments to adjust Personal Status Laws to reflect their definition of Islamic identity. Personal Status Laws directly affect women as they deal with issues of marriage, divorce, child custody and inheritance. In fact, the issue of greatest contention and controversy for both men and women, conservatives and feminists alike, has been that of reform of the Personal Status Law.

Despite the use of differing strategies, the reform of the Personal Status Law has been the main campaign for all strands of the Egyptian feminist movement: Secular, Muslim, Islamist, Socialist, etc. The obvious significance of the Personal Status Laws lies in their immediate and ever-present effect on women's rights in marriage and her role in family life. Debate in the public sphere (by Egyptian politicians, clerics, liberals and women) over the need to reform the laws of personal status first emerged during the nineteenth century when the customs of female seclusion and the lack of education for women were also questioned. The Ottoman Empire gave women more rights than they had possessed under the Hanafi

personal status codes — one of the four Sunni schools of jurisprudence — eventually passing two imperial edicts in 1915 allowing women to sue for divorce on limited grounds and then codified family law two years later. (Esposito 1982)

Egyptian Personal Status Law is based on Islamic law and an Islamic conception of marriage as a contractual agreement between a husband who pledges support and a woman who pledges obedience. The law in Egypt thus shares essential features with Personal Status Law in other predominantly Muslim countries. But the law has been codified since 1920 (with a law of procedure actually codified earlier in 1897) and has undergone some substantial changes since then. Even as codified in 1920, the law gave substantial rights to a wife to divorce her husband if he failed to provide support or caused her harm. The husband's right to divorce his wife is virtually unilateral without legal restriction, although Egyptian Personal Status Law does include procedural requirements designed to insure that he will not do so recklessly. (Technically, a husband can directly divorce his wife; a wife does not directly divorce her husband but asks a court to order divorce.)

The Egyptian laws passed in 1920 and in 1929 broadened the grounds for divorce so that women who were deserted, mistreated, denied financial maintenance, or whose husbands were imprisoned or infected with a serious contagious disease, could obtain divorces. (Zuhur 2000) These reforms did not come anywhere near women's demands for legislative reform, which included abolishing polygamy, limiting or abolishing the man's unilateral right of repudiation, as well as amending the automatic reversion of child

custody to the husband once the children reach a certain age. Despite the fact that historically women have had the right to add certain terms to their marriage contract, the idea of using this historical procedure to honor women's demands was not accepted. Further reforms — rejected by King Fuad of Egypt and re-proposed, but never actually passed during the 1940s — would have allowed them to write clauses into their contracts restricting their husband's right to take another wife. (Esposito 1982: 63)

The next surge in reform activity in Egypt came in 1971 and eventually resulted in important reforms — orchestrated by Jehane Sadat and a colation of women's activists — decreed by President Anwar Sadat in 1979 during a parliamentary recess, and then later passed. The 1979 Personal Status Law reforms incorporated new grounds for divorce by a woman if her husband took another wife without her consent. A wife would be informed if her husband divorces her and would be sent a notarized divorce certificate. She would retain child custody until the ages of 10 for a boy and 12 for a girl, and be allocated the family apartment as her residence until she remarried.¹² These reforms also addressed women's right to work, so long as it did not interfere with their "family duties," and ended the practice of *bayt al-ta'a* (house of obedience), wherein the husband was permitted to lock up his wife at home until she was more "obedient."¹³

¹² During the Nasser era, courts ruled in favor of women keeping the family home as their residence following a divorce. Once this court ruling in favor of women became a customary practice, it set precedence for its codification as part of the Jehane reforms in 1979. However, the practice was eradicated following the repeal of the Jehane law in 1985, ending the previously customary practice of granting divorcees the marital home. (Al-Ali, 2000)

¹³ Although *bayt al-ta'a* was never codified into law, it was a common practice, sanctioned by both courts and police. The 1979 Personal Status Law reform prohibited its use. (El-Alami, 1992; Esposito, 1982; Graham, Hillard and Kamal ElDin, 1985; Hatem, 1993; Stowasser, 1987, 1994)

But due to the extra-parliamentary method of legal passage — and after excessive pressure from conservative Islamists who now controlled a significant percentage of seats in the People's Assembly — in 1985 the Supreme Constitutional Court declared the 1979 Personal Status Law unconstitutional. Most, but not all, of their advances were rolled back, due to the rise of religious conservatism and increased profile of religious authority in Egypt.

When the Supreme Constitutional Court ruled in 1985 that Sadat had exceeded his constitutional powers by failing to submit the decree to parliament, a new, slightly diluted law, was duly passed. Two of the principle changes adopted in 1979 and 1985 were to make it easier for a wife to claim “harm” or *dharar* (and thus demand a court-ordered divorce) if her husband married a second wife and to require that the husband provide housing for his divorced wife and children still under her care. A further change implemented gradually in the 1960s and 1970s related to *bayt al-ta'a* [literally, “house of obedience”]. A husband whose wife has left his house can ask a court to order her return.¹⁴ Formerly, such an order could be forcibly implemented by the police. Over the past three decades that practice has virtually disappeared, but a wife who ignores a *bayt al-ta'a* order will forfeit many of her legal rights.¹⁵

¹⁴ As will be seen, joint property is virtually unknown and housing is usually is provided by — and belongs to — the husband.

¹⁵ The impact of the law can only be understood in the context of Egyptian customs and bargaining related to marriage. Since husband and wife retain separate ownership, much of the pre-marital bargaining concerns what each side will bring to the marriage or pledge to the other. In general, a husband is expected to provide an apartment and major appliances. A wife may provide some of the furnishings for the apartment. A husband also is required to pay a *mahr* [bride-price] to his wife (or to her family to hold in trust for her), often consisting of two separate amounts. The *mahr muqaddim* [advance bride-price] is paid at the time of the wedding. A *mahr mu'akhkhar* [delayed bride-price] is also sometimes pledged to be paid in the event of divorce (or death). A husband is also expected (and required by law) to provide financial support for the family; so long as the husband provides the proper home and support, a wife is expected

More recently, on January 26, 2000, after six sessions lasting a total of 13 hours, the People's Assembly in Egypt passed a watered-down version of the new Personal Status Law, governing marriage and divorce.¹⁶

In its original form, the law would have allowed women to initiate a divorce and to travel abroad without their husbands' permission — clauses that a large number of deputies had argued were against Islam and would destroy the family. The compromise version of the bill does grant women the right of *khulu* — to divorce her husband without cause by renouncing all her financial rights — but she must first pass through a three-month arbitration period, involving a mediator from both the husband and wife's family. The clause upholding a wife's right to travel was stricken from the bill.

No one expected the People's Assembly — which is dominated by the ruling National Democratic Party machine politicians from the provinces, and only has eight female members of a total of 454 — to pass the law without a fight. The government played fast and loose with parliamentary procedures to get the law through, in a way normally

(and required by law) to live with her husband. These arrangements leave tremendous room for bargaining and protracted financial negotiations to precede (and often prevent) a wedding. With housing scarce and expensive and financial resources tight for all but the very affluent, the families of the bride and groom are generally very anxious to ensure that the needs and interests of their side are guaranteed; they are also careful to safeguard the interests and property of their side should the marriage end in divorce. The social standing of the two sides, the earning power of the groom, and quality of housing he can provide all affect the outcome. As a result, although the law would seem to give a husband far greater divorce rights than a wife, the situation in practice often depends on the arrangements made in advance of the marriage and the nature of the marital difficulties. If a wife can show harm — perhaps because of physical or verbal abuse (or, since 1979, because the husband marries a second wife — she will not only be able to divorce her husband, but may also be able to demand the *mahr mu'akkhar*, child support, and housing. If, however, she leaves her husband and is unable to satisfy a court that she is justified, she may face a *bayt al-ta'a* order giving her the choice of returning to the home she fled or forfeiting most of her financial rights.

¹⁶ The Egyptian parliament and main legislative branch of government.

associated only with press laws, extensions of emergency laws, and other bills that they know will raise an outcry of protest.

When the final tally was taken, 111 members voted for the watered-down bill, and three abstained (one of whom, Ragab Hemeida of the Liberal Party, had objected to *urfi* marriage as un-Islamic). The remaining 340 members of the Assembly either didn't show up or didn't sit out the debate. President Mubarak ratified the law on January 30, 2000. (Cairo Times, February 3, 2000)

And though the legislation perhaps falls short of some women's activists' expectations, it gives women an escape hatch from a bad marriage. On January 29, 2000, Waffa Mossaad Gabr, a mother of two from mid-Delta town of Tanta, became the first woman in Egypt to try her hand at *khulu*. Her husband, a local farmer whom she had married in 1986, didn't fail her in any of the reasons usually cited in divorce cases — impotence, inability to provide for her, or being sent to jail, for example — it was just that she “hated living with him.” (*Akher Sa'a*, February 14, 2000)

Women's rights activists and some nongovernmental organizations had been hard at work on the draft Personal Status Law proposal for several years. Under the new law, Egyptian women will be able for the first time to invoke *khulu'* (a woman-initiated category of divorce) on any grounds, as long as they return the *mahr* (dower) and renounce her financial rights. If a requisite intervention by arbitrators — usually relatives from each side — fails the divorce will be granted in three months and is irrevocable.

The new law also makes obtaining divorce easier for both genders by establishing a family court system that assigns social workers on a case-by-case basis as well as a system of income verification so that child support can be more easily obtained and the creation of a family insurance plan to ameliorate conditions prior to and following divorce. Furthermore, Egyptian men will no longer be able to divorce their wives in absentia. Known as *talaq al-ghiyabi*, this was considered one of the worst male abuses of divorce. It stemmed from an earlier practice in which a man could dissolve a marriage by simply stating “I divorce thee” three times, even if his wife was neither present nor informed.

One of the new law’s most significant social changes is official recognition of *urfi* marriages, those performed according to traditional or customary law, instead of codified religious law. These are similar to common law marriages in the West. Many young Egyptians sought *urfi* marriages because formal marriages entail considerable expenses — a dowry, expensive formal engagement, large wedding and purchase of all necessary household items including an apartment. In an effort to collect the necessary funds, many young Egyptians end up having to wait for years to marry and in the meantime are not supposed, according to local custom and Islamic law, to have sexual relations or even date.¹⁷

¹⁷ Although *Urfi* marriages allowed couples to engage in sexual relationships and be married, it also meant that the women would be forgoing their *Sharia*-based marriage rights. In general, *Urfi* marriages have a less-than-honorable reputation in Egypt. Before the new law, they were absolutely unacknowledged by the government because of an original 1931 statute, mandating registration of all marriages with a *mazoun* (civil marriage registrar). There are a lot of problems with *urfi*, or “customary,” marriage. It does not usually provide any rights to the wife in the case of divorce, and can get her in trouble if she wants to marry again. In 1999, the Islamic Research Academy of Al Azhar — one of the key theological institutions in the

Such reforms aside, the new Personal Status Law still affirms the supremacy of men by retaining their right to take a second wife and enabling them to initiate divorce more easily than women.

Religious and procedurally based arguments are often wielded against legal reforms on laws of personal status. These laws have been codified in many Muslim states, and are based upon those formulated within particular schools of *Sharia*. What Islamic sources one cites on questions of women's status is of critical importance because there is a cleavage between the early sources and the later juristic tradition. Increasingly, feminists and modernists are asserting that the Quran and the *Sunna* (example of the Prophet) provide material favorable for feminist and modernist positions, whereas the juristic tradition and the associated cultural norms, which developed in the context of traditional

country — issued a statement calling for *urfi* marriages to be criminalized. (Al-Ahram Weekly, September 15, 2001) Anyone who enters into such a marriage or assists others in doing so (i.e., lawyers and witnesses) should be punished, the statement said. *Urfi* marriages don't provide for the financial security of women or for the maintenance of children. "The burdens fall on the women," the report said, which "differs from the condition of normal marriage, which includes responsibilities [to both parties]." (Al-Ahram Weekly, September 15, 2001) According to Madiha Al Safty, a professor of sociology at the American University in Cairo, the *urfi* marriage was always there but for different reasons. In the past, it was widespread among the widows of soldiers who had huge pensions, which they did not want to lose if they officially re-marry. Now, however, it is mostly among university students and young couples who cannot afford the high cost of marriage. Traditionally, *urfi* is associated with wealthy men maintaining a secret wife on the side. In recent decades, however, as jobs and houses have become scarce, more and more young people are entering into *urfi* marriages. *Urfi* marriages are not registered, so no one knows how many are taking place, but there's a pretty solid consensus that their increase isn't a good thing. From a purely legal standpoint, the basic *urfi* contract is little different than not being married at all. There's one important difference, however. A family law court won't look at an *urfi* document unless a child is involved, but a criminal court might. If the husband disappears, points out AUC professor of Arabic studies Mohammed Serag, the wife has no way to go to court and divorce him. (Al-Ahram Weekly, September 15, 2001) She can marry again, but if her original husband shows up she might be charged with polyandry, a criminal offense. Not only has *Urfi* been faithfully challenged, but also until recently, it's proven to be nothing but a widening black hole. For many years, the government didn't recognize them and the paper signed could only be resorted to for ascertaining filial obligation. Left with the upper hand, husbands often walked out on their wives, whom could do nothing to stop them. Women couldn't get a divorce because the government did not recognize the marriage to begin with. And they also could not remarry or they would be accused of bigamy. Under the new personal status law passed on January 29, 2000, however, divorces from *urfi* marriages are now recognized, thus adding legitimacy to this much-maligned form of matrimony.

societies in the Muslim world, provide material for the conservative and radical Muslims. (Zuhur 2000)

Until recently, Muslim Personal Status Laws have been passed, reinforced or amended in ways very unfavorable to women as a reflection of the growing power or threat of Islamic extremists. However, despite the above-mentioned setbacks, the reform of the Personal Status Law in Egypt in January 2000 also indicates that the new trend of feminism operating from within the framework of Islam is to a certain degree succeeding in introducing progressive legislative reform. Data collected through interviews with feminist activists and lawyers, complemented by archival and legal research on statutes, case law and court procedures will provide a better understanding of this process. This study's focus on legislative reform, specifically the Personal Status Law, will add a new dimension to multidisciplinary research on shifting legal strategies of women's movements in the Middle East.

Structure of the Dissertation

This dissertation presents an attempt to contribute to the contemporary Egyptian women's movement by providing an in-depth account of the broad range of women's activism and the various strategies toward Personal Status Law reform that they have adopted over the years.

I dedicate Chapter 2 to presenting the conceptual rationale of this research project and the theoretical discussion of fieldwork and methodology. In Chapter 2, I situate myself as an

author in this kaleidoscope whilst looking at the problematics of research writing. In the process, I introduce the methods of research I had undertaken throughout my four-year project, as well as describing in great detail my research subjects and the rationale for choosing them.

Chapter 3 presents the theoretical framework of this research project. It is the following theories and ideas that form the basis of my argumentation and analysis. As is often the case with feminist analyses, I have relied on an amalgamation of social theories to address the question at hand, i.e. which strategy has been most effective in garnering progressive legal change for women? This chapter also takes up issues of framing and representation of feminism and the debates surrounding it.

Chapter 4 demonstrates the implications of Personal Status Law reform and the reasons behind using it as a case study of the shifting strategies of the Egyptian women's movement in its campaign for legal reform. I first present a brief overview of the evolution of the Personal Status Law in Egypt, followed by an examination of the significance of Personal Status Law reform in changing women's status and guaranteeing equal citizenship rights.

Chapter 5 will provide an overview of Personal Status Law reform and debates over the span of a century — from the 1880s to the 1980s. The chapter will trace the progression of amendments made to the Personal Status Law in each political era as well as the responses of Egyptian feminists to the respective changes.

I have dedicated chapter 6 of this dissertation to contextualizing the contemporary women's movement, having already sketched the history of the Egyptian women's movement in Chapter 5. Since an overarching Islamization of political discourse is the backdrop to Egyptian feminisms, this is dealt with in Chapter 6, which looks at the different perspectives and strategies of Egyptian women mobilizing for legal change. The chapter will examine secular, Islamist and Muslim feminists' varying approaches in their demand for Personal Status Law reform in the 1990s. Islamist, and Muslim feminist voices are presented by analyzing their written material, as well as featuring their own words through personal and published interviews.

Having been brought up to date by the preceding chapters, Chapter 7 will open with a discussion on the significance of the Personal Status Law reforms of 2000 and provide an overview of the changes made to the previous law. Furthermore, Chapter 7 will examine contemporary discourse on Personal Status Law reform in the public sphere by varying factions in society such as the Islamists, Modernists and Feminists. In this chapter, the opinions and rationales regarding legal reform of family law are elaborated. I will also analyze different debates in the media by each group surrounding the Personal Status Law 2000 before and after its passage. This is paralleled by an analysis of the changing relationship between the Egyptian state and the feminist mobilization for legal reform. Here I will explore the role of the state and pursue the question of whether the state supports or hinders the women activist and their goals.

In Chapter 8, I examine the debates taking place in the feminist and women's activist camp preceding and following the amendment of the Personal Status Law in 2000. In this

chapter I will try to expound upon the viewpoints of specific women activists who participated in the public sphere discourse on Personal Status Law reform. As varied as the Egyptian political spectrum is I have limited my discussion to the opposing viewpoints of the Islamist and secular feminists.

In Chapter 9, I will present contemporary discourse on Personal Status Law reform in informal public sphere, namely that of the marginalized lower-income women of Egypt. Using material from interviews with lower-income women, I will assess whether the Islamist and Muslim feminist trend of reverting to language of Islam has tricked to the grassroots women. This section will provide an analysis of the interviews with grassroots women to determine whether women in popular districts have adopted strategy of using language of Islam to push for more rights

And finally, Chapter 10, in conclusion, assesses whether Islamist and Muslim feminist's use of the language of indigenous culture and Islam to promote women's rights is more effective than adopting westernized notions and language of human rights.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER TWO:
Research Methodology**

Chapter 2 – Research Methodology

INTRODUCTION

The purpose of this chapter is to present the conceptual rationale of this research project and the theoretical discussion of fieldwork and methodology. In this chapter, I situate myself as an author in this kaleidoscope whilst looking at the problematics of research writing. In the process, I introduce the methods of research I have undertaken throughout my four-year project, as well as describing in great detail my research informants and the rationale for choosing them.

In the Egyptian context there is certainly no lack of literature concerning analyses of ‘women’s position in society’, ‘the status of women’ or ‘women’s roles’ (Abdel-Kader 1973, 1987; El-Baz 1992, 1997; Zulficar 1995). However, Nadia Farah’s extensive literature review on the material about women in Egypt, covering a period of eighteen years (1975-93), reveals a gap between theoretically informed literature, mainly produced by foreign researchers, and empirically grounded work by either local researchers or development agencies. In Farah’s assessment only very few manage to bridge the gap, thereby combining both theory and substantive data. Farah identified 450 titles, but only half were available in any of the consulted libraries in Cairo. Almost half of the literature was carried out by foreign researchers or Egyptian researchers residing and working abroad.

I believe that my research will provide a bridge between ‘foreign’ and ‘local’ researchers. In the course of my dissertation, I will provide a detailed account of the context, content and political significance of contemporary Egyptian women’s activism. This is mainly

achieved through my analysis of interviews with members of women's groups and individual activists. However, I believe that women's activism cannot be analyzed without contextualizing it in the wider political culture in which it takes place. Subsequently, I will explore a range of factors, such as the Egyptian state, Islamist constituencies and the political left.

I hope to offer a detailed and in-depth account of a movement that has often been analyzed and categorized in a rather removed and homogenizing manner. However, my very position as a researcher might also have facilitated the acquisition of insight into a broader range of activities and attitudes which may be concealed from someone totally involved in the activities in question.

My interest in legal reform and women's rights discourse can be traced back to my M.A. studies at the University of Toronto, where I became more familiar with feminist law and feminist rights discourse. Coinciding with my M.A. studies was the revival of the debates on Personal Status Law reform in Egypt in the mid-1990s. Ever since, I have become captivated with the progression of debates for and against legislative change granting women more rights and liberties. In order to satisfy my need to understand why Personal Status Law reform was so slow and problematic, I decided to dedicate my Ph.D. studies to researching the Egyptian women's movements demand for Personal Status Law reform, and the complications of attaining said reform.

I was particularly interested in Egypt for a number of reasons. Although familiarity with Egyptian culture was certainly one of the factors, as I had previously lived in Cairo with my family, it was not the deciding factor. As a Middle Easterner I was well aware that the reforms that took place in Egypt very often resonated throughout the Arab world. Essentially, Cairo was often touted as the ‘heart and mind’ of the Arab world. Not only is it the headquarters of Al-Azhar, one of the most established universities in the Islamic world with over 1000 years of history to its name, Egypt has long been at the forefront of social and cultural transformation in the Middle East. It has witnessed some of the most important secular (Pan-Arab Nationalism) and religious movements (the Muslim Brotherhood) of the 20th century. Furthermore, at the turn of the 20th Century, Egypt had one of the first growing women’s movements. By the late 19th Century, it had a socio-political and cultural climate that was conducive to the expansion of a burgeoning women’s movement.

In the 1890s women’s journals, poets, writers and salons were sprouting across the social spectrum in Egypt. Despite the use of differing strategies, the reform of the Personal Status Law has been the main campaign for all strands of the Egyptian feminist movements from their inception: Secular, Islamist, Socialist, etc. In their pursuit of Personal Status Law reform, Egyptian women have been at the center of and continue to react to apparently contradictory discourses and interests. Caught in between the pursuit of modernization, attempts at liberalization, a pervasive nationalist rhetoric of ‘authenticity’ and ongoing imperialist encroachments, women are often the focus of conflicting and ambiguous interests. To date, women’s activists in Egypt have been

among the most vocal in the Middle East in their demand for legal reform. Although women's activism in Egypt has taken various guises through out the past century, its central focus has not changed: Personal Status Law reform. For this reason, Egypt appeared to have all the right components to make an ideal case study of women's activists' demands for Personal Status Law reform.

Once I embarked on my doctoral research I realized that my background in Political Science would not be sufficient in answering my questions about Personal Status Law reform and its significance in Egyptian history. In order to understand the issue at hand, it would be necessary that I gain more knowledge in the field of Sociology and Religion as my research question clearly necessitated an interdisciplinary approach. Consequently, I enrolled in the Ph.D. Humanities program which I believed would equip me with the interdisciplinary tools I would need to conduct my research on Personal Status Law reform.

The courses I took the first year of my Ph.D. program were designed to give me a deeper historical understanding of religious and secular social movements. During this time I became interested in designing a methodology that would best enable me to answer the questions that were at the heart of my research. Being familiar with more conventional methodology, I devoted considerable time to learn about feminist epistemology and research methods as well as the feminist critique of the philosophy of science.

Feminist researchers recognize the need to develop research methodologies consistent with feminist values.¹ The deep suspicion of quantitative methods which are accused of distorting women's experience and result in silencing women's voices has created an advocacy of qualitative methods which allegedly permit women to express their experiences in their own terms. Those in favor of qualitative methods have argued that individual women's understandings, emotions and actions must be explored in women's own terms. Oakley (1981:41) says that "the goal of finding out about people through interviewing is best achieved when the relationship between interviewer and interviewee is nonhierarchical and when the interviewer is prepared to invest his or her own identity in the relationship." Oakley adds that data collection which in traditional science will be transformed into numbers, should be replaced it interviewing techniques in which "personal involvement is the condition under which people come to know each other..." (1981:58)

An inclusive view of methods, which is becoming increasingly popular in feminist research emphasizes the use of a variety tools – be it quantitative or qualitative – as long as they accurately answer research questions and are used in a way that is consistent with feminist goals and values. The feminist debate on methods has evolved from one that

¹ No matter what the discipline or method of research, the unique nature of feminist research is its foundation of basic feminist epistemological assumptions. These assumptions are critiques of traditional research. Feminist researchers argue that there is a pervasive lack of information about women's worlds and the oppression they experience. There is also a bias in the under-representation of women researchers. Therefore, feminist researchers believe there is a need to re-conceptualize traditionally investigated phenomena to include women's experiences. They also argue that new research questions must be asked that have crucial implications both for the results obtained and for practical action (Cook 1983, p. 127). These basic assumptions, as well as the fore mentioned epistemological assumptions, lay the foundation for feminist methodology and the resulting research. Therefore, it is the epistemological assumptions that affect the methodology that ultimately create feminist research. With all this said, I believe that feminist

rejects mainstream research strategies to one that combines various tools – triangulation – to capture a more complete, holistic and contextual picture of reality. “The effectiveness of triangulation rests on the premise that the weakness in each single method will be compensated by the counter-balancing strengths of another. (Jick 1979: 604)

Moreover, in the 1960s and 1970s, feminist scholarship has achieved a breakthrough by popularizing relativism.² It has become obvious that ‘the objectivity’ of the researcher was only an illusion. Various sciences opened up for new interpretations as it became clear that previous research results had been dominated by male perspectives.³ As a Middle Eastern woman I was very much aware of the silencing of women’s voices in history and society that is so often addressed by feminist critique of conventional research methods. However, it is worth mentioning that in the case of Middle Eastern women, the silencing had a different dimension also. Middle Eastern women, until recently, had become the silent object/subject of Western, colonial writing and fantasies. Consequently, my concern was to find a methodology that would enable me to weave my

epistemologies are the golden keys that unlock the door to feminist research. Once the door is unlocked, a better understanding of the distinctive nature of feminist research can occur.

For indepth discussion of feminist research methods and feminist epistemology, see Appendix 5 and 6.

² Since feminism is the theoretical articulation of the emancipatory aspiration of women, I am intrigued by the new wave of Islamic feminism and the role it plays in promoting women’s autonomy. Feminist commitment to women’s agency and sense of selfhood, and to the exercise of social criticism regarding gender relations is an integral project. According to Drucilla Cornell’s article “What is Ethical Feminism”, feminism allows for a re-presentation of reality, particularly the strictures of gender identity, “so that what has faded can be drawn into vivid outlines, what has been invisible can be seen, what seemed natural can be challenged and imagined differently.” This operates against the sedimentation of gender identity into an unshakable reality. (Cornell, 1995) Interest in notions of identity and the ways in which subjects are constructed has peaked in the past decade. Subject’s identities are created through agency and this agency is ‘created through situations and statuses conferred upon them’ (Scott 1992). Within this framework, politics becomes a discourse by which people ‘determine who they are and who they shall become as social beings’ (Schild 1991).

³ Social and political actors, in this case women, are in the position of constantly interpreting, appropriating, reconstructing and constituting the norms, principles and values of society (Benhabib, 1995) and it is this reconstruction that I am most interested in.

way around these pitfalls. Through my research I hoped to contribute to a a better understanding of the process of social and legal reform through not only formal institutions, but society at large.

My research project focuses on the debates presented by secular, Islamist and Muslim feminists prior to, during and after the January 2000 reform of the Personal Status Law in Egypt. I accomplish this through a multi-method research design incorporating qualitative and quantitative analysis, and combining archival and field research. In conducting my interviews and fieldwork, I have relied on a combination of participant observation and open-ended questions. The variation in methodology depended on my interview subjects. The interview designs will be discussed in greater length in the coming sections on phase 2 and phase 3 of my research.

RESEARCH DESIGN AND METHODOLOGY

Fieldwork

This is not and does not pretend to be ‘classic ethnography’ in the conventional sense of “establishing relationships, and by learning to see, think and be in another culture” (Bell 1993: 1), partly because I was not in another culture as such, but actually studying in, and about, a very familiar culture. Nevertheless, much of this study involves characteristics of ethnographic writing. And it is for this reason that I have engaged in the task of examining “living fieldwork” in the light of feminist ethnographic and anthropological writing. Furthermore, I find inspiration in the arguments put forward by certain feminist ethnographers (Strathern 1987; Visweswaran 1988; Mascia-Lees et al. 1989; Bell 1993;

among others), who emphasize that the gendered self-awareness and situatedness of writers structure processes of gathering as well as of writing/authoring.

Many anthropologists have pointed out that fieldwork is situated between autobiography and anthropology (Okely and Callaway 1992) and that it connects a personal experience with a general field of knowledge. Fieldwork is not the unmediated world of ‘others’, but the “world between ourselves and the others” (Hastrup 1992). The concept of “intersubjectivity” — the relationship between the researcher and the research community, the politico-cultural worlds to which each belong, and the ultimate purpose of the research project (Sayigh 1996: 2) — is addressed by many feminist researchers. In many ways, then, writing this research without writing myself in it is akin to attempting to paint a portrait without a brush. In the beginning, however, I resisted most emphatically the idea of situating myself. My reasons were motivated by the inherent possibility of falling into the pitfalls of ‘navel-gazing’, or into ‘simple confessionals of field experience, or into atomistic nihilism’ (Marcus and Fischer 1986: 68). I was also alert to the romanticism that some anthropologists adopt when, in attempting to place themselves consciously within the text, they ‘exoticize’ their selves.

By viewing the scenario from the point of view of its most interesting contenders — feminists — I am attempting several things. First, to bring out the diversity of feminist voices, whose silence is to be seen as relative to the coverage that both state and (male) Islamists persistently receive in both scholarly and journalistic works. Secondly, I highlight the importance and diversity of women’s activism in an area often portrayed

(by certain researchers, the global media and even many international activists) as mostly devoid of feminisms and populated by oppressed women. And thirdly — though by no means lastly — to understand the dynamics of power that motivate and shape the lives of many Egyptian women in contemporary Egypt. In many ways then, this study in the long run contributes to the appraisal and recognition of contemporary Egyptian women activists.

Fieldwork and writing experiences are as rich as they are varied. What I must say here is that I neither try to present ‘the truth’ through this text, nor do I claim complete knowledge. I am fully aware that this text as presented has involved and continues to involve much theorizing of the personal. I am also aware that this text may well develop meanings of its own to those who read it. In the following chapters, various aspects of this journey of doing and writing fieldwork will be referred to. So, now I shall go on with the rest of the narration.

Phase One of Research

By early March 2001, after a long process of applying and reapplying at the Egyptian Embassy in Montreal, I obtained a visitor’s visa to Egypt.⁴ A few days later I was on a

⁴ In March of 2001, I had not yet obtained my Canadian citizenship and was thereby using my Iraqi passport. This has proven to be very restricting and highly problematic ever since Iraq’s internationally condemned invasion of Kuwait. Therefore, until recently (June 2002), when I finally obtained my Canadian passport, travelling had become limited and often an arduous, cumbersome process. In the past, I had enjoyed the privilege of a Egyptian residency visa under the sponsorship of my father, who had chosen to retire from the United Nations in Egypt following the Gulf War and who’s affiliation with the United Nations as a former UN official had given us many privileges in Egypt during his lifetime. However, after his passing in August 2000, I was stripped of my residency status in Egypt, making any visit back to what I had considered my “home” at one point, a painstaking ordeal.

plane to a country that I had come to know quite well.⁵ I arrived in Cairo with potpourri feelings; excitement and trepidation. On the one hand, this was a city I had lived and studied in for almost a decade, and on the other hand, I was embarking on what I believe to be the most rewarding and important project to date, i.e. my Ph.D. research.

During my teens, I had lived in the pristine residential area of Maadi, where most expatriates and diplomats resided, and attended the only American high school at the time, Cairo American College. Although I was completely engulfed by American culture during my high school and undergraduate years at the American University in Cairo (AUC), I was still very much aware of social and political events unfolding around me. During my work in Cairo as a journalist⁶ with the Associated Foreign Press, through my socio-political assignments, I gained an even greater understanding of Cairo's civil society and public sphere. It is at this time that I became well acquainted with Cairo's densely populated *shaabi* neighborhoods and shanty towns, and the economic and social problems that plague them.⁷

⁵ Prior to the actual research for my dissertation, which took place 1999-2002 over a period of one year, I had lived, studied and worked in Cairo for about ten years. I had first moved to Egypt 1988, when I was in my early teens accompanying my parents when my father was transferred there as a UN diplomat. I continued to live in Cairo until 1995, when I moved to Canada and began my graduate studies in political science at the University of Toronto. Since then, I have traveled back and forth, sometimes for months at a time. During that time the city had become much more than the mere site of fieldwork, as I had established many friendships over the years and had become rather involved in Cairo's social life. When I returned to Cairo in March 2001 there was a sense of 'coming home' in a way, since I knew where I was going to be staying, with whom, where to shop, how to find my way around the city without getting lost (most of the time that is). In brief, all the practical arrangements, which tend to take up lots of time and effort in the initial phases of fieldwork, were already sorted out.

⁶ Before starting my PhD degree, I worked with the Associated Foreign Press as a journalist in Cairo from 1996 to 1998.

⁷ *Shaabi*, an adjective, denotes popular culture. *Shaab*, a noun, signifies the masses.

Since the first phase of my research, which spanned from March to July 2001, was to be spent doing mostly archival research, I chose to stay in my parents' apartment in Maadi, from which I could commute to downtown Cairo, the setting for my research.⁸

Upon my arrival, I embarked on re-establishing effective communications with my previous AUC professors, and my old friends from the foreign and local journalistic community. This was an effective point of departure as the two sets of links combined would generate numerous contacts for my research and open many doors for the less accessible interviews.⁹

Archival Research (June 1999-September 2002)

The first phase of my research, i.e. archival research, dates back to 1999, when I first started doing library work in Montreal and Toronto¹⁰. During this time I endeavored to understand the discourse on legal and social reform in Egypt, with particular emphasis on Personal Status Law debates. I wished to study the strategies used by Egyptian modernists and women's activists to lobby for legislative reform. I felt it was equally important to examine the oppositions' arguments and objections to reform of the Personal Status Laws. Throughout the first year of the Ph.D. program, I devoted most of my time researching books and articles on the women's movements in the Middle East. This was

⁸ The libraries, archives, family courts and even contacts I was planning on visiting were all situated either downtown or in the surrounding neighborhoods of Zamalek, Dokki, Agouza and Mohandessin.

⁹ My previous work as a journalist, through my affiliation with the American Chamber of Commerce (ACC), had allowed me to make solid connections with very influential political and economic figures, who were members of the ACC. Furthermore, some of the AUC professors with whom I was acquainted were either members of Parliament (such as Farakhanda Hassan) and Non Governmental Organizations or knew others that were members of Parliament and NGOs.

¹⁰ Most of my early sources and references were compiled from research done in the libraries of Concordia University, McGill University and Robarts Library at the University of Toronto.

also the period in which my readings helped me formulate what would later become my theoretical framework. In addition, I began reading Islamic scripture and original texts to familiarize myself with the debates and framework of Islam.¹¹ I continued to revisit the archives to refer to historical and contemporary literature on the debates throughout my doctoral research. This has been an ongoing process in order to remain up to date with the most recent literature and discourses.

Consequently, in March 2001, the first phase of my research in Cairo was dedicated to building on the wealth of information I had already collected from my readings in Canada. Archival research was of significant importance as it constituted the bulk of my examination of the debates surrounding Personal Status Law reform in the formal public sphere.¹² I began my first phase of research in Cairo with library work in Egypt's national libraries and archives in order to familiarize myself with Personal Status Law reform and debates dating back to the late 19th Century. After visiting several different libraries, I chose to concentrate on four main and historic libraries, namely Al-Azhar Library, Cairo University Library, the National Public Library, and the Ahmed Shawky Library.¹³ I

¹¹ Although I consider myself a practicing Muslim, meaning I adhere to the five pillars of Islam, I was not well-acquainted with Scripture. Therefore, I spent much of 1999 and 2000 reading and re-reading the Quran and *Hadith* compilations (*Sahih Bukhari* and *Sahih Muslim*) to be able to follow the debates of Islamist feminists, who are reinterpreting scripture from a feminist viewpoint.

¹² A great deal of data gathering took place in libraries - university and public libraries; private libraries of activist friends; documentation centers of various NGOs; and street vendors. Both class (upper middle) and family background (urban) meant that I could identify personally and be identified with different classes. In that context, I was accorded the respect of the upper and middle-class group leaders, whilst simultaneously being befriended by the middle and lower echelons of a group. This fluidity was only relevant when interviewing female political party members, since the hierarchies of leader-member seemed to function primarily there.

¹³ Of the four libraries, I found the Ahmed Shawky Library to most useful in terms of finding original feminist writing, such as sporadic issues of women's journals, women's poetry from the turn of the 20th Century and other material on the subject of Egyptian women's rights. The reason for this was that in 1999, on the 100th year anniversary of the publication of Qassim Amin's groundbreaking book, *Tahrir Al-Mar'a*, Suzanne Mubarak had inaugurated the library as the main national archive for women's studies.

found the sources there to be the most preserved, correctly labeled and comprehensive.¹⁴

It is worth mentioning that, throughout my archival research, I examined not only establishment resources, but women's writings and research as well.

In the next phase of my archival research, I focused on assessing Egypt's print media by looking at debates, which included the arguments and counter-arguments by opposing sects of society, surrounding the reform of the Personal Status Law. Toward this end, I looked at:

- Women's magazines and newsletters
- Public and official newspapers
- Islamist's publications and newsletters

Because the public sphere — comprised of the mass media, informal religious gatherings, and women's discussion groups — is instrumental in the feminists mobilization of public opinion towards their demands for legislative and social reform, Phase 1 of my research included overviews, assessments and analysis of print media. I examined debates surrounding the reform of the Personal Status Law — both prior (from 1890 to 2000) and following (2000-2002) its amendment in January of 2000. This process was comprised first of an examination of Egyptian women's magazines (*Kol Al-Nas*, *Kalam Al-Nas*, *Al-Shabaka*, *Al-Mawed*, and *Ruz Al-Yusef*), which were instrumental in exposing me to the ever-changing vehicles and rationale used by women, past and present, in articulating their demand for legal reform. Then, I examined newsletters, and public and

¹⁴ The four libraries I concentrated on were dispersed all over Cairo. Al-Azhar Library was in in Madinet Nasr, Cairo University Library was on Cairo University Campus in Giza, the National Public Library was

official newspapers representative of both the state and opposition (namely *Al-Ahram*, *Al-Wafd*, *Al-Gomhuriyya*, *Al-Shaab*, *Al-Watan*), which depicted the arguments pro and con Personal Status Law reform by opposing forces of the wide Egyptian social spectrum (i.e. modernist intellectuals, conservatives, clerics, the State, Islamists, feminists, and women's movement activists). I have also examined the conservative and radical Islamist debates regarding the Personal Status Law reform by looking at Islamist's publications and newsletters (most notably, *Al-Liwa*).

Throughout my archival research, I have come to learn the significance of political cartoons in Egyptian society. From my research of newspapers and magazines from the early 20th century to date, I noticed that cartoons provide a social commentary chronicling indirect critique of the state, its laws and society in general. Egypt possesses a rich and diverse mass media that has matured and expanded in parallel with the country's modernization. Cartoons have come to play a major role in mass media. Political and social cartoons are topical; they are a fluid representational genre that maintains an internal consistency, while at the same time responding to the political and social contingencies of particular periods. What the different media used to convey these representations have in common is that they are also the vehicles of modernity's public spaces and its modes of representing social experimentation. Examining cartoons, I looked at the iconography of such representations at different moments in time and in different media that, having no prior counterparts, are intrinsically definitive of the new public space they examine.

For example, one particular cartoon I found to be interesting was published in the mass-circulation weekly *Ruz Al-Yusef*, intended primarily for an Egyptian readership.¹⁵ The cartoon emphasizes the starkness of visual juxtaposition by showing a man and a woman walking together on the beach, other bathers in the background. The man is grotesquely fat and hairy; the woman wears a bikini with a *niqab* — a Saudi-style face veil that covers her entire head, leaving only a slit for the eyes. Such dress is considered a statement of radical fundamentalism in the Egyptian media and by many Egyptians. Of course it is normally worn with a long shapeless gown and gloves. As the pair walks, the man says to the woman, “Don’t look back... there are informers.” One might be tempted to interpret the cartoon, along with the article, as an instance of the lurid Western iconography that careens from the harem to the brothel. But in Egypt, these images are part of a long-standing discourse within the Egyptian media. It is important to acknowledge the continuity and depth of this discourse. And of course, many things have changed in Egypt, including certain conventions in popular culture. But there are also elements of popular culture that show strong continuities, such as the use of cartoons as an outlet of critique and at times social frustration.

In addition to library work, from April 2001 to July 2001, I also embarked on legal research, examining:

- Legislation and debate prior to codification (from 1890 to 2000)
- Court cases on divorce since the Personal Status Law reform (March 2000 to June 2002)

¹⁵ See *Ruz Al-Yusef*, Issue 3348, August 19, 1992: 40

This process entailed an examination of all legislative reform (with the main focus being on the Personal Status Law) affecting women's rights in Egypt from 1923, when the first Personal Status Law was codified, until the present. This was done mainly through looking at the codified legislation, in addition to meeting minutes, if available, that were kept haphazardly in the People's Assembly archives.

Moreover, analysis of court cases on marriage, divorce and child custody have proven to be highly effective for research on women's rights in Islam. Consequently, I conducted archival research of lower court records of divorce cases, followed by an analysis of pertinent cases and related statutes.¹⁶ Following several discussions with Egyptian lawyers, I realized that attending court hearings would be highly effective in understanding the Egyptian legal system. As a result, I attended a total of 12 court sessions of divorce to understand the cultural perceptions of women's rights according to the *Sharia* by both the court and the women themselves, as well as the court's interpretations and application of the reformed Personal Status Law. Attending court cases and talking to the plaintiffs was as essential as it was important in order to familiarize myself with the Egyptian legal system as well as the types of divorce cases that end up in court. Most divorces in the Middle East are usually resolved privately by the two parties and their families.¹⁷ The cases that do end up in court signify the failure of the social and legal mechanism that are designed to handle diverse situations. The rise in divorce cases landing in court indicates a change in society whereby the social mechanisms are not responding efficiently.

¹⁶ It is important to mention that my fluency in Arabic has simplified this stage as most lower court records are maintained only in Arabic.

Throughout my archival research, I encountered several difficulties that stalled my progress in collecting data. During my library work, there was always the problem of access. Like most Middle Eastern societies where the right to free access to information is problematic, library access was a continuous issue. In the beginning, when the library personnel had still not gotten accustomed to seeing a new face, I had to repeatedly explain why I was there, what my research project entailed and, most often, for whom I was working.¹⁸ Once I had broken the barrier of suspicion, the librarians turned out to be extremely helpful when I was sometimes stunted by my inadequacies in certain aspects of working with the Arabic language. As I have never had formal school training in Arabic, I was not very good at reading hand-written script. The librarians would sometimes help me in deciphering some words or phrases that to me seemed illegible.¹⁹

Another practical problem that slowed down my research was the issue of photocopying library reference material. Since most of the texts I was examining were either originals or old issues of material dating back to the early 20th Century, they were kept in the reference section and could not be loaned out, which was very understandable. However, to complicate matters was the fact that often they could not be photocopied. This meant that I had to spend long hours taking notes, summarizing and sometimes reading the material out loud into my tape recorder so that I could transcribe them later on.

¹⁷ See Amira Sonbol, 1996.

¹⁸ In the beginning, until the librarians had gotten used to seeing me on an almost daily basis, I was regarded with some suspicion. To them, a student coming all the way from Canada to do her doctoral research on women seemed very dubious.

¹⁹ My knowledge of classical and colloquial Arabic is a culmination of a self-educating process. Since my adolescence, I took it upon myself to master reading and writing Arabic by always reading Arabic books

More importantly was the substantive problem that I encountered during my archival research. Often I would find that many issues of newspapers and magazines were missing. When they were not missing, they were mislabeled. And a recurring frustration was the fact that libraries carried mostly historical material from mainstream media.

**Phase Two of Research — Interviews with Women in the Formal Public Sphere
(February 2002-May 2002)**

As an emerging public, women have introduced new topics and themes by focusing attention on women's problems and needs. This is increasingly true of the public sphere. By offering new interpretations of these issues and demanding reconceptualization and transformation of institutions, women's activism have provided a whole new agenda for political discourse. By raising their voices as part of both formal public discourse as well as the informal public sphere, their aim was not only to increase women's self-consciousness, but also to challenge the implicit assumptions and understandings of the public. Indeed, cultural transformations in public opinion can shape and transform public institutions as well as the public's self-understanding. Given that until that point in time, I had been closely following the intense debate in the formal public sphere through print and oral media, I felt that it was necessary that I interview women who actively participate in both the formal and informal public sphere. From these women, I hoped to have several questions answered, namely: what specific demands did they have in terms of amending the Personal Status Law? Was the reform of the divorce law their main priority or was it simply a step to further legislative and social change? Why is Personal

and newspapers. Although I can read print material with fluency, I still have some trouble in reading handwritten passages.

Status Law reform so important? What kind of lobbying for reform did they undertake? And finally, what is the relationship between Personal Status Laws and the democratization of the family and equalization of citizenship?

I arrived in Cairo for the second phase of fieldwork in February 2002 with these questions in mind.²⁰ Thinking about the different categories of women activists able to answer my questions, I realized that I must interview women activists from NGOs, political parties as well as academia. Once again, I made my visits to AUC professors and several journalist friends, all of whom could get me good contacts with women activists and members of the legal community. Prior to my arrival in Cairo, I had already established contact via email with many of the women from NGOs and women's organizations.

Because of my prior involvement in women's activism and my previous work as a journalist in Egypt, I was already aware of a number of key figures and groups. However, I spent the first weeks trying to map out a 'field' by speaking to numerous people — scholars, funding agencies and women activists — about their perception of which groups and which individuals were significant in the contemporary women's movement.²¹ In the course of these discussions, it soon became obvious to me that the

²⁰ My second phase of research lasted from February 2002 until May 2002.

²¹ With regards to the question of what constitutes a group, my starting point will be Dawn Chatty's definition of a group being constituted by a collection of individuals who interact with each other on a regular basis and "thereby shaping the identities each form of themselves and of others in the group" (Chatty and Rabo 1997: 8). Chatty distinguishes between informal and formal groups, the latter being perceived to be more stable over time with more stated rules. Throughout my dissertation I will be using 'organization' and 'group' (as in formal group) interchangeably. A 'network', on the other hand, refers to a more or less loose association of formal and informal groups and possibly individual activists lined together

contemporary scene of women's activism is extremely varied in terms of activities and institutional frameworks: NGOs with clear structures and decision-making bodies exist side by side with more loosely organized groups; ad hoc networks mobilizing around specific issues or tasks are formed and dissolved by activists who are often simultaneously involved in other groups or activities; several women's committees exist which are attached to political parties, professional organizations and human rights centers; and a number of women intellectuals work independently through their specific professions or are loosely affiliated with specific groups and might cooperate on specific projects.²²

I went back into the field with a desire to (re)discover the different women activists, observe them and write about them. My intentions were to rely on friends I knew from my college years to (re)connect me to the different activists. My fieldwork turned out to be one of the most formative periods of my life and certainly one of the richest experiences I have had. Not only did I get an opportunity to locate and study the diversity

on the basis of common objectives. Networks are generally established in order to tackle very specific campaigns or tasks, as, for example, the female genital mutilation task force in Egypt.

²² Throughout my writing I have used the term feminist and women's rights activist interchangeably. This is mainly because my definition of feminism is very much in line with the aims and ideology of Egyptian women's rights activists - the term Egyptian women tend to use. I define feminism as an effort to deal with inequality between men and women. Its basic premises is that in considering the rights of men and women, their physical differences should not affect the way they are treated legally, socially or politically. Nonetheless, it is worth mentioning the stance Egyptian activists have regarding the different terminologies. Many of the women I interviewed reject the label 'feminist' for pragmatic and ideological reasons. The English term 'feminist' evokes antagonism and animosity, and even anxiety, among many women activists, who seem to have internalized the way feminists are being portrayed in prevailing Egyptian discourses: men-hating, aggressive, possibly lesbian, and certainly westernized. Some of the women I interviewed (from the socialist left wing parties) generally distinguished between the women's movement (*al-haraka al-nissa'iyya*) and the feminist movement (*haraka al-nassa'wiyya*), the latter being a recently coined term. Some women's activists perceive this newly invented concept of *nassa'wiyya* (feminism) as only being concerned with patriarchy (*abawiyah*), but not including analyses or critiques of economic and political inequalities. In contrast to 'the feminist movement', they argue, 'the women's movement' entails the concern with national independence, class struggle, and other social and political issues.

of women activists, but I was able to gain an insight into the issues that are shaping their agendas and mine, and to participate actively with some of them on common issues (e.g. participating in meetings to discuss and compare networks).

In this phase I conducted interviews with women activists working as individuals or as members of NGOs or Women's Organizations (a total of 16 Islamist, Muslim feminists and secular), lawyers (total of 9), and leaders of the women's wings of political parties (total of 3) to assess the legal community's perception of the legislative reforms that have taken place. In my selection process, I made sure to include Islamist, and secular²³, liberal and conservative, traditional and nontraditional women in my interviews in order to formulate an overview of all the opposing voices of activists from the wide array of the socio-political spectrum in Egypt. Indeed, my interviews with women activists have provided a greater understanding of their perception of women's gains and losses following the January 2000 reform of the Personal Status Law.

For convenience I have used Nadjé Ali and Azza Karam's classification of women's movements and groups as it lends itself to the purposes of my research. Although some scholars have identified these classifications as problematic, I am using the terminology (Muslim, Secular and Islamist) as mere points of departure rather than rigid categories. It

²³ Throughout this research my use of the word secular refers to the acceptance of the separation between religion and politics, but does not necessarily denote anti-religious or anti-Islamic positions. Furthermore, I suggest that secular activist do not endorse *Sharia* as the main or sole source of legislation; but they also refer to civil law and human rights conventions, as stipulated by the UN, as frames of reference for their struggle.

is important to mention that many women's classifications vary and often overlap, depending on the roles they are playing at a given point in time.²⁴

My interview design comprised detailed questionnaires and in-depth interviews. I had already designed open-ended questionnaires on issues relating to legislation (past and present) pertaining to divorce, marriage, marriage contracts and general views on the Personal Status Law reform. The interviews lasted an average of two hours and were conducted in the respective women's offices, and sometimes their apartments, depending on how well I knew them.²⁵

Overview of the women I interviewed:

- Women Activists (Secular, Islamist, and Muslim feminists)
- Traditional and nontraditional (Female) lawyers
- Women's organizations and NGOs
- Leaders of Women's Wings of Political Parties

²⁴ The struggle to remove obstacles to equality — women's *rights* activism — manifests itself in the various campaigns to change existing laws that reflect and reproduce gender inequality. It also aims to improve women's access to education and paid labor, and increase political participation. The 'women's rights' approach constitutes a major form of engagement among contemporary Egyptian women activists, since concerns with legislation and equal access to education, etc. are also part of the agenda of socialist-oriented activists. However, socialist activists differ from their liberal counterparts in that they reject the idea that reforms will bring about women's equality; instead they perceive women's exploitation as part of structural inequalities which are rooted in class divisions, capitalism and imperialism. As for the western category of 'radical feminism', which broadly encompasses opposing patriarchy, emphasizing differences between women and men, and focusing on sexuality as a site for women's oppression and liberation, it has not found great resonance among Egyptian women activists. It is important to note that these strands do not present clearly bounded categories. I could detect a great deal of overlap and flux among and within various groups, which also applies to the specific forms of engagement within women's activism. The very term 'activism' glosses over a variety of involvement and activities, which, if considered in isolation, are not all forms of 'political activism': charity, welfare, research, advocacy, consciousness-raising, lobbying and development. For the lack of a better label, I will use the term 'women's activism' throughout my research to refer to the broad and fluid range of activities and involvement in the women's movement. Therefore,

SAMPLING

Typology of Women's Activism

How I came to choose the secular, Muslim and Islamist women activists was a long process that required in-depth research of NGOs and civil society in Egypt. In my analysis, I deferred to Maxine Molyneux's useful analytical categorization of women's activism, which is furnished by the tripartite model deployed in her analysis of women's movements historically and cross-culturally (1998). Molyneux suggests three ideal types corresponding to their respective organizational principles and conceptions of authority: groups may be (1) independent, (2) associational and (3) directed. 'Independent organizations' are characterized by 'independent actions, where women organize on the basis of self-activity, set their own goals and decide their own forms of organization and forms of struggle' (1998: 226). Molyneux emphasizes that autonomous female collective action is not necessarily feminist in the sense of presenting 'real gender interests', but could also perform self-help activities of various kinds, pursue goals not directly related to gender issues, or even abrogate women's rights. For the purpose of my research, I will narrow down her categorization to those independent women's groups that are expressive of any of the broad feminist approaches outlined above.

Using Molyneux categorization and my archival research of Egyptian civil society, I found that varying political orientations can be found among independent women's organizations, such as *Markaz Dirasat Al-Mar'a Al-Gedida* (The New Woman's Research Center), *Rabtat Al-Mar'a Al-Arabiyya* (The Alliance of Arab Women), *Markaz*

from hereon forward, 'women's activists' specifically alludes to women involved in *qadiyyat al mar'a* (women's issues) and the Egyptian women's movement.

Dirasat Al-Mar'a: Ma'an (The Women's Study Center: Together) and *Gama'at Bint Al-Ard* (Daughter of the Land Group). The Alliance of Arab Women, whose members are mainly professional upper-middle-class women in their fifties and sixties, exists on the most liberal end of the broad spectrum of feminist approaches, endorsing both welfare work and women's rights activism. The Alliance is officially registered as an NGO with the Ministry of Social Affairs, the implications of which I will discuss later. Others such as *Ma'an*, *Al-Mar'a Al-Gedida*, and *Bint Al-Ard*, have circumvented the strict regulatory codes linked to the ministry by registering as non-profit companies or research centers. The group *Al-Mar'a Al-Gedida* is frequently referred to as the most radical feminist group in contemporary Egypt, which carries the negative connotation of being westernized and merely focusing on the issue of patriarchy.²⁶

In addition to these independent groups, which are, to different degrees, involved in advocacy, research and grassroots projects, there are service-oriented NGOs with a special focus on the role of women in both development and underdevelopment. These NGOs, such as *Gama'at Nuhud Wa Tanmeyyat Al-Mar'a* (The Association for the Development and Enhancement of women, known as ADEW) and *Markaz Wasa'il Al-Itissal Al-Mula'ama Min Agl Al-Tanmeya* (Appropriate Communications Techniques, known as ACT), combine concrete development projects with political campaigns.

²⁵ For a sample questionnaire conducted for women activists, see Appendix 5.

²⁶ I have adopted Heidi Hartman's definition of patriarchy as "a set of social relations which has material base and in which there are hierarchical relations between men, and solidarity among them, which enable them to control women. Patriarchy is thus the system of male oppression of women" (1979:232). It is important to note, however, that forms of patriarchy vary historically and cross-culturally. With regards to this research I have been more concerned with the marriage system which makes women subjugated to men's wills, and limits their choices in life and society.

Under what Molyneux calls the ‘associational’ activism category, can be subsumed those groups and activist who are affiliated with wither political parties, professional organizations, or human rights organizations. In the case of professional organizations, the goals and interests related to their professional umbrella might override the specific aims related to women’s activism. Some members of *Lagna Al-Mar’a fi Ittihad Al-Mohameen Al-Arab* (Women’s Committee of the Arab Lawyers’ Union), *Gama’iyat Al-Katibat Al-Misriyat* (The Egyptian Women Writers’ Association), *Dar Al-Mar’a Al-Arabiyya Nour* (The Arab Women Publishing House Nour), and *Gama’iyat Al-Cinemat’iyat* (The Egyptian Women in Film Society) have been most outspoken and active concerning the plight of women.

Furthermore, women activists working within the framework of human rights organizations such as *Markaz Al-Dirasat Wa Al-Ma’lumat Al-Qanuniya li Huquq Al-Insan* (The Legal Rights and Research Center, LRRC), *Markaz Al-Qahira li Dirasat Huquq Al-Insan* (the Cairo Institute for Human Rights Studies, CIHRS) and *Markaz Al-Mussa’ada Al-Qanuniyya li Huquq Al-Insan* (The Center for Human Rights and Legal Aid, CHRLA) can be subsumed under the label of associational activism, since the general framework of their activism belongs to human rights agendas and frameworks. All of the women affiliated with human rights organizations are involved in reformist women’s rights activism; however, many are simultaneously involved in other women’s groups or networks and the specific analysis of gender inequalities in diverse.

My research of women's activism also pointed me in the direction of women's activism in the arena of formal politics. Women's committees affiliated to political parties, such as *Ittihad Al-Nissa'I Al-Taquadummi* (The Union for Progressive Women), which is affiliated to the socialist Tagammu party, and *Lagnat Al-Mar'a fil Hizb Al-Nasseri* (the Women's Secretariat of the Arab Democratic Nasserist party), represent associational women's organizations whose members are, to different extents, involved in women's activism beyond party politics. The level to which their activism is actually 'directed' by party politics seems to vary. Although the members of the Union for Progressive Women emphasize structural inequalities due to class divisions and capitalist relations, their activities fall mainly between welfare work and women's rights activism. Conversely, the members of the Women's Secretariat of the Arab Democratic Nasserist party put special emphasis on national independence and the threat of imperialism.

I found that, aside from relative levels of independence and freedom of action, Egyptian women's groups vary with respect to their membership size, their access to women at the grassroots and their national and international affiliations. The terrain of political engagement ranges from social and development work to consciousness-raising through seminars, conferences and discussion groups, research activities, advocacy, campaigning and the publishing of pamphlets, magazines and books. As heterogeneous as the groups and their members might be, they are united by their commitment to retain and expand their civic rights and equality before the law.

Since I was already familiar with some women's groups it was not difficult to re-establish contact with some friends, and through them to widen the networks. As far as women politicians were concerned, attending many evenings of debates and seminars within the universities (AUC, Cairo University and the University of Alexandria), specific professional syndicates, as well as those arranged by political parties in Cairo, enabled me to meet many more. The 'system' is such, however, that once contact is established with one of these women, the linkages with the others often come as a matter of course. Having announced my research and purpose — sometimes by being introduced by a mutual friend, and at times by introducing myself, presenting my card and briefly elaborating on my topic of research — I was then able to request an appointment for an interview. Once the interview was conducted and sometimes even before, I would use the opportunity to ask for names and telephone numbers of colleagues/friends in other groups. Because the circles are quite small, the women tended to know of each other and could help me to get in touch. In fact, most of the women I met were very helpful and were generous with their time and information.

In Egypt as well as the Middle East, often intellectuals and some activists are not affiliated with any particular association or group. Thus, I also conducted interviews with women intellectuals (Secular, Islamist and Muslim feminists) who do not belong to any organization or committee, but work individually through their professions as lawyers, journalists, writers, social and development workers. These intellectuals and activists only occasionally link up with particular ad hoc working groups for a specific project,

such as the Female Genital Mutilation Task Force, the Women's Media Watch, or co-ordination committees for international conferences.

As far as Islamist women were concerned, extensive networks of family friends and friends of friends eventually, and after a considerable period of time (which could well extend to a couple of months), led to contact with the desired person. The more underground the group members felt they had to be, the longer it took to establish contact. On at least two occasions, the meetings did not materialize. I was to learn later that the persons found it unsafe to leave their home — either because of sudden heavy police presence in the area or because of a general increased sense of insecurity or threat. Once direct and personal contact was established however, the length of the interview itself was not fixed in advance. Their time was generously made available to me. In some instances I would go to the same women time and again to ask more questions.

Access to interviews with individual women intellectuals was much easier as they were either acquaintances of professors I have known for a long time, or connections made through lawyers I had previously worked with, such as women's activist and lawyer Mona Zulficar.²⁷

Apart from open-ended interviews, discussions, debates and the occasional heated arguments, I attended a variety of meetings. These included religious meetings in people's houses and in certain mosques. I also attended and occasionally participated in

meetings of the various women's organizations. In addition I attended seminars, lectures and conferences on issues ranging from film-making to the analysis of the functioning of NGOs in the Arab world, to discussions of laws and law-making.

I noticed that one of the best ways to enter the elite feminist secular circles especially was after being invited to a social gathering. Once an invitation to such a party was extended, it signaled an acceptance of the person. I realized that by attending some of these parties, many doors were opened to further contacts, which in effect circumvented a great deal of time and facilitated more personal interactions later on.

Political Parties

It became evident from my research that there are many extremely active women's groups and associations, who know of each other and whose members may have worked on an individual basis with each other at some point in time on certain projects and issues — the environment, health care, family planning or campaigns involving Personal Status Laws, citizenship and labor laws. In general, however, these groups and individuals often work separately and without consistent coordination or cooperation.

Further, the groups cover the whole political spectrum, from one end (such as those in the Tajammu' Party and the Nasserist Party), to the center (like some of the independent women's associations, as well as the ruling party's own 'women's committee'), to the

²⁷ Mona Zulficar, who has written extensively on women's rights in Egypt and is a well-known activist for legal reform, was instrumental in getting me access to other lawyers and intellectuals. I had the opportunity to get to know her through my previous story assignments as a journalist in the 1990s.

opposite end (as in the Islamist women's groups). The situation is such that the polarization among the left and right is intense.

There are thirteen political parties in Egypt. The five main ones are the centrist ruling National Democratic Party (NDP), the Tajammu' Party (leftist), the Wafd Party, the Liberals, the Labor Party (which is allied with the Muslim Brotherhood and is therefore more to the right of the political spectrum) and the Nasserist Party (leftist). All have some form of a *Lajnat Al-Mar'a* ('Women's Committee') which is actively involved in organizing plenaries, discussions, seminars, setting up and working on women's projects, lobbying for women's issues and distributing publications of relevant studies or seminars. As a rule, however, women parliamentarians have not often acted as a bloc. Having not yet reached a critical mass in terms of numbers, they have not wielded influence as a group. Typically, they work as individuals or in coalition with their male colleagues to effect changes in the law.

I have chosen to concentrate on the women's committees of the National Democratic Party as the ambiguous ruling party; and the Tajammu' as a leftist and largely (though by no means exclusively and homogeneously) secular-oriented feminism. I felt that interviewing members of these parties would give me greater insight into the ideology and mindset of the centrist and leftist fronts²⁸. It is important to note that these two parties included two of the most powerful women's wings. None of the above classifications is in anyway absolute or universal. In fact, within one party, the range of opinions may well

²⁸ From my interviews with political scientists and professors, it appeared that the general consensus placed the Tajammu and NDP on the left and center of the Egyptian political spectrum respectively.

encompass the whole range of feminisms. However, I have taken the feminism of the elected (or, in the NDP's case the appointed) head of the women's committee to be at least acceptable by the majority of members of the party.

NGOs and Women's Organization Strategies and goals

In my examination of Egyptian civil society, I found NGOs usually belong to two categories: those that are registered under the Law of Associations and therefore in some way or another come under the "control of the Ministry of Social Affairs (in which case they are listed as Private Voluntary Associations); and those that have attempted to avoid that control completely and have either registered as research centers of some form or another, or have no legal registration at all and work in an unofficial capacity as discussion groups, or otherwise.²⁹

Women's NGOs are also diversified. I adopt the classification provided in a study carried out by the New Woman Research Center (NWRC) in Cairo. The latter is also one of the NGOs which will be discussed later in Chapter 8.

²⁹ Avoiding ministry control involves constant battles, extreme ingenuity or contacts with the right people in government - or all three. The basic 'tool' used by the ministry in its attempts to organize and monitor the activities of these 'independent associations' is the Law of Associations, more commonly known as Law 32 of 1964. Among the main stipulations of this law is that PVOs should not be political, nor contravene existing cultural and religious norms and practices. The parameters of political involvement and 'transgression' can be somewhat loosely defined - by ministry officials themselves more often than not. It has been alleged that in many cases, when top ministry officials are personally involved as chairpersons or honorary members of such associations (as indeed can be stipulated on the NGO), then the 'freedom' or leeway becomes more pronounced. However, any overt criticism of the government is out of bounds, and therefore when said or implied, it is often in the most veiled and diplomatic manner.

Women's NGOs are classified as follows:

- Those organized around promoting all women's issues mainly through research.
- Those organized around particular concerns (e.g. reproductive and health rights) and whose aim is to empower women through certain projects.
- Those who work from within different organizations in special women's committees.
- Those formed on a temporary basis to follow or study a particular issue (e.g. preparing for the Beijing Conference).
- Those who concern themselves with women's interests as part of their overall programs.

Trying to list all the active women's groups and all the different activists within the country today is not feasible in this context, for this is not a Who's Who project, nor is it an attempt to create an encyclopedia of women's NGOs in Egypt. Instead, the aim is to highlight the diversity of forms taken and ideas espoused by the different groups and individuals, and then analyze the resulting power dynamics.

Issues which involve marriage and the divorce laws (the Personal Status Laws) have been extremely controversial since the very beginning of a women's movement in Egypt, and still continue to be some of the most urgent points on the various agendas of women's groups. Other issues have emerged in the past 10-20 years, namely, fighting conservative pressures that attempt to keep women in the home and out of the labour market; rape and punishment for rape; veiling, or a variety of issues relating to 'women in Islam'.

On the basis of a study carried out by *Markaz Dirasat Al-Mar'a Al-Gedida* (the New Woman's Research Center) about the feminist movement in Egypt, Palestine, Sudan and Tunisia (Abdal Wahab Al-Afifi and Abdel Hadi (eds.) 1996), I carried out a content analysis of the stated goals of the various groups presented in the Egyptian section of the study.

Despite my knowledge about the tensions and rifts within the movement, I realized that the stated goals were not as diverse as I had assumed. However, these goals such as 'improving women's lives', working 'towards the promotion of women's situation in the society' or 'to help raise consciousness of women's issues and sensitize society to these issues', were often so general and vague that it became clear to me that differences occurred mainly at the level of operationalization of goals and their translation into activities.

It became apparent that it was difficult to evaluate the actual politics and specific outlook of each group based on their 'formal' platforms. One could detect different emphasis, but most of the above mentioned goals are too vague to be analyzed in depth. Both the notion of improving women's lives and the issue of consciousness-raising can be open to very different interpretations and might vary significantly in terms of content and ways to achieve them. Differences between the various groups become slightly more evident with regard to the emphasis of priorities.³⁰

³⁰ Many women formulated their goals and aims in terms similar to the situation analyses provided by scholars working from a women in development (WID) perspective, which constituted a critique of the previously prevailing modernization theory. As Deniz Kandiyoti notes, this literature: "contested the literature that the benefits of modernization had trickled down to women and even argued that the women

It would have been ideal to interview all the women's groups and NGOs, however due to limited time and resources this would have been very difficult. Moreover, other variables such as personal contacts with some women activists played a role in facilitating interviews and thus partially determined the viewpoints I would be documenting.

Phase Three of Research — Fieldwork and Interviews with Grassroots Women in the Informal Public Sphere (February 2002 – May 2002)

It was not enough to interview women activists, politicians and lawyers. I felt it was necessary to supplement my data with interviews with women from the informal public sphere. It is of utmost importance that my research document the concerns and perceptions of social injustice and grievances held by women at the grassroots level from two lower-income neighborhoods. Grassroots in the context of my research refers to women from the lower-income, traditional, popular districts, a.k.a. *shaabi*

were, in places, disenfranchised by losing access to some of their traditional avenues of livelihood and social participation. The concept of disadvantage based on gender was firmly back on the agenda, but remained tightly enmeshed in concerns about the development.” (1996:11) The WID approach has characteristically paid great attention to the issues of underdevelopment and poverty. However, all the women involved in the Egyptian women's movement in one way or another acknowledge that within the wider framework of fighting the conditions of underdevelopment, which affect society as a whole, there are issues of particular relevance to women. Poverty, while affecting both women and men, becomes gender specific issues in a situation where the 'feminization of poverty' has been documented widely in relation to Third World countries (Afshar 1989; Mies 1988) The link between improving the situation of women in Egypt and eliminating illiteracy is widely acknowledged, not only among women activists but also among NGOs, development agencies and government bodies. For women activists, literacy is often conceptualized as more than the skill of reading and writing: it is viewed as a tool to spread ideas and raise women's consciousness about their rights. Legal literacy, that is, knowledge about existing laws and the ability to understand them, is often mentioned in this context. Indeed, the notion of increasing women's awareness about their legal rights is perceived as a priority issue for many activists I interviewed. As one member of the liberal-oriented *Rabtat Al-Mar'a Al-Arabiyya* (the Alliance of Arab Women) put it: “We are interested in helping [the] Egyptian woman who is not fully educated. We want her to be educated, that is to be able to read and write. But we also want her to know her legal rights, so that she won't be cheated easily and that she could increase her income”.

neighborhoods.³¹ Having examined the debates taking place in the public sphere, I felt that my final stage of research should focus on gaining exposure to women from lower income neighborhoods.³² Among the many questions I had prepared for grassroots women, my main target was to explore to what extent grassroots women believed the Personal Status Law reforms were relevant to their own lives. I also wanted to find out the extent to which the grassroots women understood the pro-con arguments surrounding the debates on Personal Status Law reform, and with which arguments they agreed most. Finally, I was interested in determining whether Islamist feminist discourse had trickled down to the grassroots levels and subsequently influenced grassroots women's understanding and articulation of the issues.³³

In order to make the most of my time in Cairo, I conducted this stage of my research from February 2002 until May 2002, during the same period of time I had allocated to interviewing women activists and lawyers. Although I spent almost every day in the neighborhoods with the women, I would take sporadic breaks whenever I was granted an interview with one of the women activists I mention in the previous section.

³¹ The concept of *shaabi* is dealt with in greater detail in the following section of this chapter.

³² Part of what makes feminist research unique is its reliance on experience. Experience is often perceived as personal, the emotional dimension of what a woman undergoes in a certain situation. For Mies (1991), experience is more: it means taking real life as a starting point, its subjective concreteness as well as social interactions. The introduction of the category of experience, or the subjective, into science corresponds with the rising popularity of slogans such as "the personal is political." Accounts of the personal constitute the subject-matter of feminist theory and thus the basis of feminist political activity. The personal is not only the political; it is also the frequently invisible yet crucial variable present in any attempt to do research.

³³ See Appendix 6 for a sample of a complete questionnaire I had used.

Therefore, upon my arrival, I visited Sayeda, and Nabil, who worked for various households in my building.³⁴ I considered both Sayeda and Nabil old friends whom I could trust and rely on to help me make connections with women in the *shaabi* neighborhoods I had chosen. It turns out that both Sayeda and Nabil had distant relatives³⁵ living in the two neighborhoods.

SAMPLING

The Women

Even though I had met and talked to many women throughout my fieldwork, I chose to limit my interviews to twenty women that I had deliberately chosen to formulate a comprehensive sample of grassroots women in *shaabi* neighborhoods (the traditional, popular and lower-income districts of an Arab city). My sample was contingent on various variables, including age, marital status, years of marriage, profession and level of education. Subsequently, in Phase 3, I mostly used open-ended questionnaires and in-depth interviews with 20 women, divided equally into two groups: 10 of middle-income and another 10 of lower-income group. Income was not the only variant among the groups; differences in education and profession were also factors. Each group was further divided between a religious, traditional group and the secular and modernist group. Fifty percent of the women, whose ages varied between 30 to 50 years, had been married for more than five years since I was seeking women's personal perceptions and experiences with regards to legislation on marriage and divorce and its effect on their lives.

³⁴ Both Sayeda and Nabil had worked and lived with my family since the late 1980s when we had first arrived in Egypt. Over the years, they have virtually become members of my family, living and working with us and sharing in each other's lives over the years.

Consequently, divorcees made up 25 percent of the interviewees and women filing for divorce in court to made up another 25 percent.

Although these women are not representative samples of all the different groups that make up the lower middle class, they do represent a significant portion of the lower and lower middle class. A lot of these neighborhoods have local leaders, usually women heading neighborhood saving clubs.³⁶ Local grassroots women leaders usually are older women who are revered for their wise and fair judgement. In cases of disputes (domestic and others), women usually turn to the women leaders for arbitration. I relied on the local leaders to introduce me to other women in the neighborhood.

Table 1: Ten Women Low-Income With Primary Education (*Ibtida'iyah*)

(Neighborhoods: Helwan and Sakanat Maadi)

	<u>Name</u>	<u>Occupation</u>	<u>Age</u>	<u>No. of Children</u>	<u>Marital Status</u>
1.	Saniya	Wax Lady	49yrs	2 children	divorced
2.	Sayeda	Maid	40yrs	4 children	divorced
3.	Naimat	Laundry washer	32yrs	2 children	divorcing
4.	Awatef	Cook	48yrs	3 children	divorcing
5.	Fayza	Home-maker	31yrs	1 child	divorcing
6.	Hosneya	Vegetable vendor	46yrs	5 children	married>5ys
7.	Noha	Janitor in mall	30yrs	2 children	married>5ys
8.	Zaynab A.	Bawab's wife	32yrs	6 children	married>5ys
9.	Naima	Street sweeper	40yrs	4 children	married>5ys
10.	Salwa	Home-maker	30yrs	4 children	married>5ys

³⁵ For *falahi* folk, simply being from the same village qualified one as a "relative". Therefore, it was not difficult to find people in the target neighborhoods to whom Sayeda and Nabil felt connected.

³⁶ For more discussion on saving clubs and local women leaders, see Hoodfar (1997) and Singerman (1995).

Table 2: Ten Women Lower Middle-Income With Secondary Education (*Thanawiyah Amma*)

(Neighborhoods: Helwan and Sakanat Maadi)

	<u>Name</u>	<u>Occupation</u>	<u>Age</u>	<u>No. of Children</u>	<u>Marital Status</u>
1.	Fatma	Teacher	48yrs	2 children	divorced
2.	Manal	Factory Worker	35yrs	3 children	divorced
3.	Zaynab. G.	Seamstress	47yrs	4 children	divorced
4.	Mariam	Secretary	37yrs	2 children	divorcing
5.	Azza	Home-maker	31yrs	1 child	divorcing
6.	Mervat	Cashier	31yrs	2 children	married>5ys
7.	Khadija	Gov't employee	40yrs	3 children	married>5ys
8.	Suad	Baker	34yrs	3 children	married>5ys
9.	Heba	Home-maker	30yrs	4 children	married>5ys
10.	Magda	Home-maker	43yrs	4 children	married>5ys

The Neighborhoods

Having worked as a journalist in Cairo for nearly 3 years, I was well acquainted with the various popular districts of the city. Even after I left my job as a journalist, I kept in touch with many of the informants with whom I had become acquainted throughout my various reporting assignments. These old friends played a key role in opening doors and providing access to my sample neighborhoods. The two neighborhoods in which I conducted my research have become over the past decade among the more densely populated and busy areas of Greater Cairo. Until the 1980s, both Helwan and Sakanat Al-Maadi would have been considered beyond the frontiers of Greater Cairo. Today, with the rapid expansion of the city limits, both areas have become urbanized and assimilated into Greater Cairo, enjoying transportation routes and utilities just like other areas of the city.

These areas have developed in traditional style with crisscrossed narrow alleys between rows of five- or six-story buildings. The buildings overlook the main streets, the thoroughfare for traffic, which includes cars, taxis, buses, mini-buses, mopeds and donkey carts. The main streets, constituting the more public spaces of the neighborhood, are usually lined with stores, traditional coffee shops (*'ahwa*) and government cooperative supermarkets (Al-Ahram) called *gamiyat*.

During the day, the more private alleys are the women's space.³⁷ This is where the women sometimes convene, especially in summer, as the alleys provide cool relief from the small crammed apartments. Although the neighborhoods are linked to other areas of Cairo through an intricate artery of roads and public transportation, most of the women's contacts and mobility is restricted to the nearby main streets, which house the *gamiyat*, markets (*sug*), health clinics, pharmacies and schools.

Most of the neighborhoods' residents are Muslim, with a few Copts interspersed. The lifestyles of both religious groups is very similar, however, as both consider themselves Egyptian and speak the same language.

It is worth mentioning that these neighborhoods are not ghettos. In fact, they are referred to as *hay shaabi* (in the single form), or *ahya' shaabiya* (in the plural), denoting popular quarters as opposed to the more modern, Europeanized areas of Maadi or Mohandessin, for example. The residents are mainly first and second generation rural migrants, as well

³⁷ The alleys are designed so that passersby barely get a glimpse.

as urban migrants who could not find accommodation in their own neighborhoods in old Cairo.

I have chosen women from two different neighborhoods:

- A long-established lower-income neighborhood in the industrial area of Helwan.
- A mixed, newly-established popular neighborhood in Sakkanat Al-Maadi, whose inhabitants include *falahi* (rural migrants) and *baladi* (traditional urban lower middle class). I will also consider interviewing the more educated civil servants to get a more rounded perspective of the views shared by women of the lower middle class.

Methodology

Drawing on my studies of interdisciplinary research, my primary method of collecting data in this phase of my research has been through participant observation. Interview data was mostly gathered in the form of life histories. This has allowed for the collection of data on sensitive issues such as polygamy, *mahr* and divorce.

I felt that since my sample was quite large in relation to the limited time I had to conduct the research,³⁸ the incorporation of detailed questionnaires and in-depth interviews would enhance the collection of data. Taking this into consideration, I had already designed

³⁸ Due to my Iraqi passport, and following the September 11 attack on the U.S., Egyptian border officials had agreed to allow me a maximum residency of four months.

open-ended questionnaires on issues relating to divorce, marriage, marriage contracts and views on the Personal Status Law debates that had the country in an uproar.³⁹

In addition to open-ended questions, I presented women with high profile and controversial cases of divorce, custody, etc that have been discussed in the media: newspapers, TV and radio. I gave them details of the case and asked for their opinions on the matter and allowed them to use their perspectives to judge the circumstances of the case. This strategy gave me greater insight into their views of the current law, the reforms and what other reforms they believe are needed. In many cases, it was difficult to interview women alone as there were always friends or relatives visiting. However, they were less reluctant to share their views when they are in groups. For this reason, I some times chose to conduct interviews through group discussions with groups of five women.

Through out my interviews and visits with the women I would take notes or tape the conversations⁴⁰ so as not to miss out on any details. This would prove to be a great aid in recalling issues when I was making my notes in the evening. It also allowed me to format my notes in the form of direct quotations so that I could remain true to the observations. I would come home late in the evenings to transcribe as many tapes as I could, organize my data and make sure that I had not missed out any important questions or research

³⁹ These questionnaires comprised about 20 open-ended questions, which I would try to complete in several afternoons of visits over tea. I either made notes of these informal and semi-structured interviews or taped them. See Appendix 6 for a sample of a complete questionnaire I had used.

⁴⁰ At first the women were shy and would initially impose some sort of self-censorship in their comments. However, this only lasted a few hours, and then they would relapse into their normal, jovial and outgoing behavior.

necessary to writing my thesis. I made most of my notes in English⁴¹ and some in Arabic, especially when noting direct quotes.

Except for when I left the neighborhood to interview women activists from the public sphere (outlined in the section above), I spent every day socializing and visiting with the women, helping in their house chores, visiting neighbors, going to the vegetable market (*sug*), all the while discussing issues related to marriage, divorce and their frustrations with both, in addition to their daily problems of water supply, finances, worries about their children and so on.

Spending all day in the research community proved to be extremely valuable and allowed me to familiarize myself with the values and attitudes of the women in the neighborhoods as well as participate in their daily lives as a community member.⁴² Furthermore, I gained insight to the daily problems, such as lack of finances, sanitation, electricity and shortages of certain subsidized food at the government supermarket, Al-Ahram.⁴³ In acknowledgement to the importance of reciprocal relationships in the Arab world, I made every effort to reciprocate the women's hospitality, kindness and friendship. I would often help with household chores, such as cleaning, cooking and washing, baby-sit the younger children when the women had their hands full tending to other household work, and basically make my help available whenever it was required.

⁴¹ I have always used English as my first language, as it is the language in which I can best express myself.

⁴² I usually stayed in the neighborhoods from 9 or 8 am, when the children went off to school, until 8 or 9pm, when the husbands came back home and the children went to sleep.

The hardest part of this stage in my research was explaining the reason for my interest in interviewing them and participating in their daily lives. Social research, particularly anthropological fieldwork, is not a very widely understood concept in the Middle East. An added complication came from my initial introduction to these women by Sayeda and Nabil. I was first introduced as a “professora” or “doctora” from Canada, signifying a highly educated person or university professor, which seemed to inspire awe and respect by the neighborhood locals. At first this annoyed me as I was afraid that it would make me appear aloof, or distant and create a barrier between me and the women I would later come to befriend. However, after the first introduction to one of the women, I explained to Sayeda and Nabil that I would very much prefer to be introduced as a student doing research on marriage practices in Cairo.

In the initial meetings I was also introduced as “Muslima”, which instantly seemed to put the neighborhood women at ease, as we automatically had a common ground. It was important to me that the women connect with me. I was afraid that my fair skin, non-Egyptian appearance⁴³, and an imperfect Egyptian dialect, which would sometimes betray my Syrian, or “*Shami*” roots, would create a distance between the women and me.⁴⁵

⁴³ Since the Nasser era, the government has set Al Ahram supermarkets that carry subsidized basic foods, such as milk, meat, sugar, and flour, in most *Shaabi* neighborhoods in Egypt.

⁴⁴ Once I explained that I had Syrian roots, they felt more at ease that I was not “*agnabiya*”, a foreigner for which I am often mistaken in Egypt. Syrians are known throughout the Middle East to have a fair complexion and fair hair. I chose not to mention my Iraqi heritage since after the Gulf War Iraqis are considered citizens *non grata* in Egypt. Many of the families in *shaabi* neighborhoods suffered economically due to the war since their husbands had lost their jobs as laborers in Iraq, and still resented Saddam Hussein and Iraqis for the disruption they had caused.

⁴⁵ Although I was fluent in Egyptian colloquial Arabic, my dialect in pronouncing some words would sometimes betray my Syrian, or *Shami* tongue. Although the Arabic language itself is similar across the

IN SUMMARY

In order to better understand my analysis and the basis for my conclusions, it is imperative that I present the methodology and numerous steps of research and field work. Consequently, in the above chapter I have outlined the various tools and methods of analysis I have used to gather the wealth of information contributed by this dissertation.

In the course of my research in Cairo — the main center for women's activism in Egypt — I interviewed fifty women, including women activists affiliated with specific organizations or networks, 'feminist' intellectuals and professors, lawyers, journalists, and lower-income women at a grassroots level. The interviews, which ranged from loosely structured to informal, unstructured conversations or discussions, took place in various headquarters of the different groups, but also in cafes, offices, and homes of lower-income women in popular districts of Cairo. About half of the interviews were carried out in the course of one meeting only. The actual length of these interviews varied greatly (between one to four hours), depending on several factors, such as my respondents' interest in my project, our respective time schedules and whether a mutual rapport developed. Where rapport did develop, and it was coupled with interest in my project, this usually led to at least one more if not numerous other interviews and discussions, at times developing into more sustained social relations rather than one-off research encounters. This was especially true of the lower-income women whose life-stories I recorded.

Arab world, the dialects are very different. Moreover, some words differ in meaning and usage varying from one Arab country to another.

Overall I had no trouble in establishing rapport with most of my interview subjects.⁴⁶ It is worth mentioning, however, that it was more difficult to connect with Islamist intellectuals as I was often perceived as a secularist. Once they realized that I was Muslim, some of the Islamist women I interviewed would somehow allude to how the Quran prescribes that all pious women don the *hijab*.⁴⁷ Interviews from that point on would take a sermonic tone. It would turn into a mock test of my piety or of my knowledge of Islamic scripture and jurisprudence. During these particular interviews, I found it hard to set the tone and pace of the interview and extract the information I was seeking. I truly believe that had I been better versed in Islamic framework, I would have been able to design a questionnaire that would have put their distrust of me to rest.

Although most of my interviews (specifically those with professional and activist women) were conducted in English, my discussions with the lower-income women were conducted in Arabic and later transcribed into English for my personal notes. When interviewing the lower-income women and recording their life-stories, using Arabic, I started by introducing myself and explaining my research project.

In conjunction with the very enjoyable time spent recording life-stories and engaging in interviews and discussions, I spent a considerable amount of time in various offices, centers, conference halls and syndicates listening to discussions, debates and seminars in

⁴⁶ Most secular activists, many of whom were AUC alumnae, felt connected with me through my affiliation with AUC. They either had children attending the university, were themselves University faculty at one point, or had graduated from the university.

⁴⁷ Although I do not believe that the *hijab* is based on Quranic canon, and that it is mostly an issue of interpretation of certain *ayat* in the Quran, that remark usually set the tone of the interview. From that point on, I was uncomfortable and felt that I was on the defensive to prove my credibility.

formal and informal settings. In these situations I mainly confined myself to being a mere observer and listener.

Most of the numerous talks, debates and conferences I attended as well as the interviews I carried out were tape-recorded, unless this was specifically objected to. In those cases, I either took notes during the interview or as soon as possible after it. The tapes were subsequently transcribed.

In order to protect the anonymity of my respondents I have decided to use pseudonyms, specifically for those who shared their life-stories with me. I do, however, mention the names of activists and other professionals when citing their work rather than quoting them from my interviews. Aside from protecting the anonymity of my respondents, using pseudonyms facilitates the difficult task of choosing whom to quote and whom not to. It allows me to select a specific quotation with respect to its significance and content rather than worry about the etiquette of including or excluding certain respondents.

I have taken care to show the people whom I have quoted and I asked their permission to publish the material⁴⁸. The very process of selection, that is whom to quote, what exactly and how much, is rather problematic as it involves editing out other voices.

How to Measure Impact

It has not been an easy task to decide which projects to present and which to leave out among the number of diverse activities taking place. Any attempt to present a picture of

the activities carried out by contemporary Egyptian women activists can only remain sketchy and incomplete, but I hope to have been able to outline some specific projects and the wider context in which they take place. It has been an even more difficult task to assess the activities of the women I interviewed as I am aware that one could only too easily misjudge the various efforts by simply looking at the outcome. But how can one evaluate success? How is it possible to assess the impact of women's activism.

It is not enough to simply consider the achievements and failures of the women's movement with reference to specific projects; one has to consider several other factors, such as government attitudes and policies, the international frameworks for policy making and implementation, Islamist discourse and campaigns as well as the impact of international organizations and agendas on NGOs. Women's activism does not take place in a vacuum and should therefore not be assessed as if it did.⁴⁹

The way debates about the amendments to the new Personal Status Law, the new marriage contract and violence against women developed make one point crystal clear: women activists are not just struggling against general obstacles to women's rights, they are also battling against the increased political authority of conservative religious forces and a state that is inevitably caught in between the demands of Islamist groups and pressures by the international community.

⁴⁸ For sample of communication requesting interview, see Appendix 7.

⁴⁹ One overall problem seems to be the lack of specific institutional targets in many of the campaigns, which consequently tend to become diffused. The translation from raising certain issues and suggesting ramifications to actual implementation is impeded by both the state's ambiguity and lack of commitment and the women activists' own failure adequately to retain momentum and display solidarity among themselves. Competition and rivalry — often revolving around the wish to guarantee funding and

Many women activists, perhaps a declining majority, are still holding on to modernist frameworks (I am tempted to write traditional modernist), and defining their activism in the strict sense of ‘rights activism’ (rights to education, political participation, work, etc.) within the public sphere. Others work from within a dependency paradigm focusing on issues pertaining to political economy while issues bearing on the ‘private realm’ of family and home are ignored or only addressed marginally. Debates about the Personal Status Law might be considered an exception, but, as mentioned earlier, laws regulating marriage, divorce and custody have become public issues, rather than constituting a critique of what goes on between a man and women within a marriage or during a divorce. ‘Politics’ is often seen as something apart from ‘women’s issues’ and is generally interpreted as the involvement in formal party politics.

A new generation of women activists have been gradually, but consistently, challenging and unsettling some of the older notions and stipulations belonging to modernist and dependency discourse in which women’s situation at home is seen to improve automatically if her public rights are increased. They have managed to rock the boat in which the well-pampered public-private dichotomy has sat comfortably for ages. By addressing issues such as personal status laws, reproductive health and violence against women these activists have pointed to links between women’s oppression at home and in the public realm.⁵⁰

resources, but also in terms of claims to ideological and political truths — frequently block collective action.

⁵⁰ The expression “patriarchy” is only rarely used, as it is seen to be too closely linked with “Western” feminism. However, women often make allusions to the multifarious ways in which women are subjected to male domination and oppression.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER THREE:
Theoretical Framework**

Chapter 3 - Theoretical Framework

INTRODUCTION

This chapter presents the theoretical framework of this research project. It is the following theories and ideas that form the basis of my argumentation and analysis. As is often the case with feminist analyses, I have relied on an amalgamation of social theories to address the question at hand, i.e. which strategy has been most effective in garnering progressive legal change for women?

Jurgen Habermas's theory of the public sphere has proven to be instrumental in highlighting the contribution of the women's movement to mobilization of public opinion and discourse through the use of both the formal and informal spheres. (Habermas 1979, 1989, 1992; Hohendahl 1992) Habermas's theory is a multidimensional, interdisciplinary account that offers the best conceptualization of the social nature and foundations of public life. (Calhoun 1994)

Jurgen Habermas and the Public Sphere:

In *The Structural Transformation of the Public Sphere*, Jurgen Habermas speculates that the modern bourgeois public sphere came into existence when private persons joined together to exercise their reason in a public fashion. (1989, 1992) Public opinion is the end product of all the dialogues between discoursing individuals, each one of whom is capable of rational objective discourse. Habermas's model designates a theater in modern societies in which political participation is enacted through the medium of talk. It is the space in which citizens deliberate about their concerns and grievances, and hence an

institutionalized arena of discursive interaction. Conceptually, this arena is distinct from both the state and the official economy.

Habermas provides a model of civil society whose opinion and will formation is institutionalized in parliamentary bodies and courts. He elaborates on civil and public processes' influence on 'democratic opinion and will-formation,' which produces issues that enter parliamentary debates and transform and legitimate legislative reform. The public sphere is where social justice is defined and where the interpretation of needs and rights generates a recontextualization of needed institutional changes. Therefore, as individuals transform their self-conceptions regarding justices, institutions are also transformed.

Nonetheless, there are a number of social scientists and political theorists who consider deliberative democracy idealistic and impractical, basing their skepticism largely on the belief that pluralism undermines the possibility of reaching any kind of agreement and, on the contrary, produces arguments that are conflicting. (Fraser 1992; Fleming 1997; Meehan 1995; Mara 1998) The response to such skepticism can be found in the historical and social struggles of various groups to become part of the public sphere's discourse of reason. Feminism, and women's movements, best exemplify a new conceptualization of deliberative democracy, illustrating women's participatory processes and the institutional changes that allowed them to partake in the public sphere's exercise of reason.

Although I will be referring to Habermas in my theoretical framework, I will be using his theory from a feminist perspective. (Fraser 1992; Fleming 1997; Meehan 1995; Mara

1998) Habermas's analysis of the public sphere needs to undergo some critical interrogation and reconstruction if it is to yield a category capable of theorizing women's role in the public sphere. A more pluralistic approach to conceptualizing the public sphere is of vital importance to feminist research. I believe there are three major oversights in Habermas's theory, specifically with regard to gender, religion and social movements. Feminist critique of Habermas calls into question his assumption that it is possible for participants in a public sphere to bracket differences (such as gender, race, ethnicity, wealth, education, etc) and to deliberate as if they were social equals. His conception of the public sphere stresses its claim to be open and accessible to all. Now, we know from revisionist history and from Habermas's account that the bourgeois public's claim to full accessibility was not realized. Women of all classes and ethnicities were excluded from official political participation on the basis of gender status, while plebeian men were excluded by property and educational qualifications. Furthermore, women and men of other racial ethnicities of all classes were excluded on racial grounds. (Fraser 1994)

Habermas's neglect of religion, as discussed by David Zaret, is closely related to the feminist critique. (1992) Habermas shares the views of Adorno and Horkheimer (despite their criticism of the Enlightenment) that religion must decline as enlightenment progresses. Secularization, according to Habermas, is part and parcel of modernity and closely linked to the rise of rational-critical discourse. This view contributes to Habermas's blind spot on the role of religion both as a central thematic topic in the early public sphere as one of its enduring institutional bases. (Zaret 1994) The omission of

religion from Habermas's model is of great significance to my research, which is grounded in religious discourse and its effect on legislative reform for women.

Habermas's third oversight — social movements — is equally significant in my research. Both public discourse and democratic politics seem crucially influenced by social movements, which are occasions for the restructuring of not just issues but of identities. (McAdam and Snow 1997; Larana, Johnston and Gusfield 1994) According to Craig Calhoun (1994), social movements have been occasions for the legitimization of new voices, through the inclusion of people previously excluded from the public sphere as well as changes in the identities from which included persons speak. The absence of social movements from Habermas's model reflects his disregard for the struggles by which public spheres are made and remade.

Common to most feminist movements is a political activism, in groups and organizations, in debates and in the formation of public opinion and in the generation of communicative spaces as a central factor in a necessary democratization. Without women's participation in public discourse, it is impossible to transform legislation, counter prejudices and confront the politics of injustice. The immediate goal for women was, thus, to achieve free communication in public spaces. Feminist scholars and activists embarked on the excavation of historical evidence that women have been marginalized from public life. The aim was not only to denounce the exclusion of women from public spaces, but to recover those spaces.

It seems that the first step for feminist scholars and activists was to draw from their personal experiences the issues that warranted publicity. Having discovered that most of the injustices from which women suffered were rooted in family, sexuality and reproduction, women took their grievances to the public arena. Women resorted to any channel available, from legislative bodies and courts to mass media, from scholarly journals to demonstrations. Historically, when denied admission to the public sphere, women have turned to indirect routes to public influence, often resorting to civil disobedience and even violent acts to make themselves heard. (Kelly 1994)

Women, emerging as new public spheres, have developed a new understanding of democratic institutions and citizenship through their innovative understanding of deliberative dialogue. As subjects demanding recognition and engaged in the public sphere, women have become authors of a new definition of social justice. (Marshall 1994)

The public domain is the new center of self-understanding. Seeing themselves as the 'new emerging public', women have begun to investigate how publics have regarded them historically. Feminists have done a great deal of research on why the public sphere in particular was denied to them. Women, contesting the ideals of equality of participation in issues of common interest, have subsequently exposed institutional filters that have prohibited real access to public debate. While focusing on the historical and social features of the public sphere, feminist scholars themselves, such as Fatima Mernissi for example, have entered into that sphere as a new public (1987,1991, 1992,

1993, 1996). Their interpretations reveal the partial accounts offered by previous public opinion. They have exercised what James Bohman characterizes as the 'self-critical and self-reflective' features of public opinion, which have become a source of innovation and change in women's struggles throughout the world. (1996:217)

Social arenas provide opportunities for individuals to express their concerns about violations of their normative standards of social justice. For women's movements these claims are often related to recognition, equality and rights. Self-criticism by the public sphere not only contributes to maintaining it, but also to forming the public's attitudes and beliefs. By gathering new information and making public a variety of experiences, individuals become aware of problems not previously known or understood. (Marshall 1994; Gusfield 1981)

Feminist discourse often takes the shape of new interpretations or revisions of law aimed at ensuring genuine egalitarian participation in the public sphere. This deliberative democracy depends on the ability of individuals to construct new interpretations of justice and equality which safeguard the needs and rights of emerging publics. In fact, feminist theories have offered several interpretations of what equality and recognition mean in the social, political and economic life of contemporary democracies, and even in traditional societies and countries where democracy does not really exist. (Fleming 1997; Larana 1994) As these discourses emerged, new female publics created opportunities for expanding the public sphere and transforming democratic institutions.

Social Movements:

Over the past century, women's movements in the Middle East, and in Egypt in particular, have taken on different and, at times conflicting, guises, campaigning under different banners and ideologies. Although this may be interpreted by some skeptics as a sign of disunity and lack of organization, new social movement theory points to a very different explanation. In fact the ever-changing war cries of the women's movements (whether they be secular, Islamist, radical, etc) can be better understood as an effort to gain popularity, mobilize public opinion, and stay afloat at times of social change. At different times that has meant resorting to different strategies and appropriating different ideologies. Pushing for women's rights from within the framework of Islam is only the most recent in a long series of shifting frames — as defined by social movement theorists. Because Egypt has spearheaded most reform in the domain of gender relations and the status of women, it is of vital importance to consider the metamorphosis of the Egyptian women's movement and how it came to adopt an Islamicized language. I believe an examination of the social movement theory would purport an explanation behind this evolution.

Social movements grow out of informal networks of politicized individuals who share a commitment to common goals of social change. Successful movements usually do not create attractive collective identities from scratch; rather they redefine existing roles within established organizations as the basis of an emerging activist identity. I will use Doug McAdam and David Snow's definition of social movements: as collectivities working with some degree of organization and continuity to promote or resist change

through a mixture of extra-institutional and institutional means. (Tarrow 1998; Snow, Zurcher and Olsson 1980; Morris and Mueller 1992)

Sidney Tarrow argues that leaders of an emerging social movement must draw upon existing ideational materials in their societies. New social meanings are products of the struggles within social movements and between them and their opponents. According to Tarrow, cultural change occurs not through automatic diffusion of values through diffuse social learning processes, but from the assimilation into the general political culture of new frames of meaning from collective action. (1998)

David Snow argues that movement organizers construct symbol systems designed to attract supporters to their views, but that they do not invent them out of whole cloth. Organizers attempt to relate their goals and programs directly to the existing values and predispositions of their target public. They are thus in a certain sense both consumers of existing cultural meanings and producers of new meanings, which are inevitably framed in terms of organizer's reading of the public's existing values and predispositions. Snow et al. propose that social movements must bring their politicized interpretations of events, or frames, into alignment with potential recruits' pre-existing frames. When social movements can link their perspectives to widely-resonant values they are likely to be more successful at gaining support. It appears that the feminist movement's abandonment of the secular human rights language and the subsequent appropriation of an Islamist language in the wake of Islamic revivalism is a strategy of frame alignment with the indigenous culture's preexisting frames. (Snow 1986)

The framing perspective introduced by sociologist to study social movements views movements not merely as carriers of existing ideas and meanings but as signifying agents actively engaged in producing and maintaining meaning for their constituents, antagonists and bystanders. According to Snow and Benford (1986), social movement organizations “frame, or assign meaning to and interpret, relevant events and conditions in ways that are intended to mobilize potential adherents and constituents, to garner bystanders and to demobilize antagonists.” The result is that opponents will have a more difficult time delegitimizing a movement than if, for example, it proposed a totally new framework of interpretation. The implication is that a movement is far more likely to bridge, extend, or amplify existing frames in the political culture than to create a wholly new one that may have no resonance in the existing culture. For instance, by framing their aims and mobilization in the language of the cherished Quran and on Islamist terms, feminist will redefine their public image as a movement serving the best interests of their cultural heritage and traditions. Some scholars believe that the cultural effects of movements, though often neglected by analysts, frequently last longer and have greater influence than more narrow short-term policy victories. In the absence of concrete policy successes, movements are likely to find culture a more accessible venue in which to struggle.

Snow and Benford introduce the idea of frame alignment which they describe as a major mechanism through which grievances are interpreted as social movement organizations attempt to link their interests and interpretations with those of prospective adherents. The authors elaborate four ways in which frame alignment can occur. The frame alignment

process includes: (1) the bridging of movement interpretive frames to ideologically similar perspectives of unmobilized sentiment pools or public opinion clusters; (2) frame amplification, i.e. the amplification of beliefs and values of prospective adherents; (3) frame extension, i.e. extending a movement's interpretive framework to encompass perspectives and interests that are not directly relevant to its primary objectives but are of considerable importance to potential adherents; and (4) frame transformation, i.e. transforming old meanings and understandings and the generation of new ones. (Snow and Benford 1986)

Italian new social movement theorist Alberto Melucci's 1989 book *Nomads of the Present* looks at collective identity and submerged networks. The basic thrust of Melucci's conception of submerged networks is the proposition that the initial challenge to the prevailing order takes place on symbolic grounds. That is, the status quo must be challenged at the cultural level in terms of its claims to legitimacy before mass collective action becomes feasible. (Tarrow 1998)

An ideal typical sequence in social construction and cultural change would progress from least to most public awareness. Groups of individuals in submerged networks would experiment with new collective identities and action proposals, increasingly taking their new social constructions into conflict with targets of change or potential converts outside their own small circle. Finally, the national media may be attracted by the newsworthiness of the confrontation or the importance of the values at stake, and the

social reconstruction represented by the new collective identity may become a part of the public discourse. (Snow, Zurcher and Olseon 1980)

There are three major groups whose actions may prove consequential to the life of a movement: the media, non-governmental elites, and the general public. Movement organizers know that the various media are crucial to their aims. Having rejected or been denied from proper political channels, movements must be able to get their message to the general public. The media is frequently the central conduit through which movements seek to influence public opinion and policy in their efforts to promote or resist change in their society. While the general public does not set policy or implement political decisions, it can, when mobilized, affect both. It does so in two ways. First, supportive public opinion increases the pressure on state officials to react in ways favorable to the movement. Second, by mobilizing public support for a set of issues, a movement also increases the pool of people who might be drawn into more active roles in the struggle. So the number of people willing to donate money, join a demonstration or even go to jail for a cause will invariably grow in the faced of increased public awareness and support for a movement. (Tarrow 1998; Snow, Zurcher and Olseon 1980; Morris and Mueller, 1992) This process is further developed by agenda-setting theorists.

Agenda Setting:

The agenda setting process is an ongoing competition among issue proponents to gain the attention of media professionals, the public and policy elites. An issue is a social problem, often conflictual that has received media coverage. Agenda setting is often a

zero-sum game in that space on the public agenda is a scarce resource, and so an issue must push another issue down the agenda to come to attention. Agenda-setting is in essence a political process in which the public sphere — comprised of the mass media, informal religious gatherings, women's discussion groups and much more— plays a crucial role in enabling social problems to become acknowledged as public issues. (McCombs, Shaw and Weaver 1997) Usually, an end goal of an agenda-setting process is individual-level behavior change. For this reason, I dedicated much of my archival research to the examination of print media's coverage of debates of recent legislative reform, specifically the Personal Status Law.

The model of agenda setting process consists of three main components: (1) the media agenda, which influences (2) the public agenda, which in turn influences (3) the policy agenda. The media agenda influences the public agenda for an issue through a gradual and incremental process. As the cumulative number of media messages about an issue increases over time, the public becomes persuaded that the issue is important. Slowly, the public agenda for an issue builds up, in turn hoisting issues on to the public policy agenda. (Dearing 1996)

Meanwhile, movement outcomes can best be examined on three independent levels: public policy, cultural change and movement participants. Social movements struggle on a broad cultural plane, of which state policy is only one parameter. Wuthnow suggests that contemporary social movements are a primary agent of cultural change and, in fact, collective actors often seek to alter the dominant culture. Campaigns may focus on

changing discourse about a particular topic, challenging the symbolic meaning of objects, or overturning behavioral norms. The early secular women's movement sought to change expectations about women's careers and family positions, criticized language that relegated women to subordinate positions and argued against standards of feminine appearance. Social movements strategies draw on the dominant culture as well as incorporate new symbols, reconstruct discourse and display alternative norms. Movements produce culture and cultural changes are an important product of collective action. (McCombs, Shaw and Weaver 1997)

Public policy may be expressed in a variety of forms such as a new law, executive order, an appropriation or some other governmental action. In public policy, the success of a movement may come in two different guises: a challenging group can win recognition as a legitimate actor in politics and become a participant in the political process, or it can affect change through policy changes and legislative reform. The policy agenda is of key importance as it represents the outcome of activity and influence on the media agenda and public agenda. For the mass, inattentive public, public policies represent the resolution of problems that were issues on the public agenda. In practice, however, public policies often function not to solve difficult societal problems but to institutionalize a response to those problems. (Dearing 1996)

The agenda-setting model plays a critical role in my examination of the forces behind the transformation of Personal Status Law reform into a public concern in Egyptian society. Using the agenda-setting process one is able to determine the forces that make some

issues and grievances more important than others. By examining newspaper and magazine articles, publications, transcripts of parliamentary discussions, news clips and documentaries preceding the January 2000 PSL reform, I came closer to an understanding of how PSL reform was transformed into a public concern, the forces behind this transformation, or elevation in social importance, as well as the external public debate on the issue, specifically the public opinion of the masses.

Frame Analysis:

This next section takes up issues of representation of feminism and debates surrounding it. Using David Snow's Frame Alignment Theory, which I have outline in the above section, it becomes clear that the question of identity and framing is as central to women's activism as concrete struggles over women's rights and aspirations. (1986) The concept of frame has meaning in both everyday and academic discourse. Regarding the latter, its usage is neither discipline-specific nor particularly novel. (Morris and Mueller 1992) The basic referent for the concept of frame is essentially the same: it refers to an interpretive schemata that simplifies and condenses the "world out there" by selectively punctuating and encoding objects, situations, events, experiences and sequences of actions within one's present or past environment.

"Frames", "Framing", and "Frame Analysis" are all terms derived originally from the work of sociologist Erving Goffman, *Frame Analysis* (1974), the concept of frames or framing is used in the contexts of some social movement analysis to mean patterns of perception and/or schemata of interpretation employed by social movement participants or social movement organizations viewed collectively. A frame might be imagined as a

kind of template or filter that organizes how one processes new information encountered in the world. Frames organize that information based on previously held beliefs or previously shaped patterns of perception and interpretation. (Goffman 1986) In Goffman's words, frames allow individuals "to locate, perceive, identify and label" events within their immediate environment of the world at large. (1974:21) The following discussion is based on the multitude of resources on feminism and identity politics that I examined during my literature reviews and archival research.

Since feminism is the theoretical articulation of the emancipatory aspiration of women, I am intrigued by the new wave of Islamist and Muslim feminists and the roles they play in promoting women's autonomy. Feminist commitment to women's agency and sense of selfhood, and to the exercise of social criticism regarding gender relations is an integral project.

According to Drucilla Cornell's article "What is Ethical Feminism", feminism allows for a re-presentation of reality, particularly the strictures of gender identity, "so that what has faded can be drawn into vivid outlines, what has been invisible can be seen, what seemed natural can be challenged and imagined differently." This operates against the sedimentation of gender identity into an unshakable reality. (Cornell 1995)

Interest in notions of identity and the ways in which subjects are constructed has peaked in the past decade. Subject's identities are created through agency and this agency is 'created through situations and statuses conferred upon them' (Scott 1992). Within this

framework, politics becomes a discourse by which people ‘determine who they are and who they shall become as social beings’ (Schild 1991).

Social and political actors, in this case women, are in the position of constantly interpreting, appropriating, reconstructing and constituting the norms, principles and values of society (Benhabib 1995) and it is this reconstructing that I am most interested in. Can women in Egypt achieve full autonomy despite oppressive laws and practices? How are Egyptian women working towards reforming oppressive laws and reaffirming their rights; I am particularly interested in looking at citizenship rights and the personal status code. What role does Islamic feminism play in this struggle?

There have been a number of ways of perceiving and arguing about feminism in Egypt. A seemingly widespread and tenacious one is a debate labeling feminism in Egypt, and especially its origins and early organized activism, as “indigenous” or “western,” setting up a dichotomized frame. It presupposes a static, essentialist constitution of “indigenous” which any attempt at historicizing would dispel. This “either-or-ing” has often been politically motivated, and has served to deflect attention from salient feminist issues. The representation of the early or foundational history of feminism in Egypt has critical implications for contemporary feminisms. There are many ways that skewed views of the feminist past can subvert current feminist projects at a time when women across a wide spectrum are trying to articulate imaginative new feminisms.

FEMINISM: As it has been rightly noticed concepts and terms have a history — and practices around concepts and terms have a history. The term feminism was coined in France in the 1880s by Hubertine Auclert, who introduced it in her journal, *La Citoyenne*, to criticize male predominance (and domination) and to make claims for women's rights and emancipation promised by the French Revolution. Historian of feminisms Karen Offen has demonstrated that since its first appearance the term has been given many meanings and definitions; it has been put to diverse uses and inspired many movements. By the first decade of the 20th century the term made its appearance in English, first in Britain and then in the 1910s in the United States; by the early 1920s it was in use in Egypt where it circulated in French and in Arabic as *nisa'iyya*. Yes, the term originated in the West, specifically France. No, feminism is not Western. American feminism is not French (as both Americans and French would loudly acclaim). Egyptian feminism is not French and it is not Western. It is Egyptian, as its founders attested and as history makes clear.

Feminisms are produced in particular places and are articulated in local terms. Creators and practitioners of women's history taking shape as a new field in the 1960s, and growing especially the during 1970s and 1980s, attested to a plethora of feminisms that had appeared in different global locations. Sri Lankan scholar Kumari Jayawardena's 1986 path-breaking book *Feminisms and Nationalism in the Third World* documented feminist movements that had emerged in diverse Asian and Middle Eastern countries and were located within local national liberation and religious reform movements, including movements of Islamic reform. Egypt as we know was a pioneer in articulating feminist

thinking and in organizing collective feminist activisms. Yet despite a large literature in many languages documenting these globally scattered feminisms, the notion that feminism is Western is still bandied about by those ignorant of history or who perhaps more willfully employ it in a delegitimizing way. Some still speak of a “Western feminism” in essentialist, monolithic, and static terms, belying a certain Occidentalist turn of mind or, perhaps, a political project aimed at adversely “framing” feminism. Feminism, however, is a plant that only grows in its own soil (which is not to suggest than any ideas or movements anywhere are hermetically sealed off).

At this moment, full of promise and peril for feminists, and would-be feminists, in Egypt I would like to re-visit Margot Badran’s historiographical work on Egyptian feminism (1991, 1993, 1995), particularly *Feminists, Islam, and Nation* (1995). I shall isolate certain arguments and theoretical formulations through a narrativizing strategy that privileged (and restored) feminist women’s voices and a portrayal of the details of their activisms, largely absent from the historical record. I want to discuss the construction of the indigenous, how early Egyptian feminists experienced “the West,” and the collaborative/contestatory paradigm. I shall conclude with remarks on historiography and the politics of reading.

Constituting the indigenous

A central argument in Margot Badran’s *Feminists, Islam, and Nation* is that Egyptian feminism, from the beginning, has been indigenous. This might seem to some like touting the obvious. For example, to say that Spanish feminism is indigenous might appear

redundant. If Spanish feminists had for example, been influenced, by feminist thinking or activist experience in France, this would not mean that Spanish feminism is French. The idea seems absurd. But a, not uncommon, claim certain scholars have made is that the origins of Egyptian feminism are to be found in Europe; this is advanced while pointing to the European language/s early feminists spoke, European women who “mentored” certain Egyptian feminists, and the earlier rise of feminist thinking in Europe. Egyptian women’s comparative observations of European gender patterns and practices, or relations (of various sorts) with European women residents or travelers to Egypt that may have figured in some way into Egyptian women’s early constructions of feminism have caused originally Egyptian feminism – in its day and retroactively – to be labeled as “Western.” There are several problems with this. It discounts, or at best undervalues, (Egyptian) experience as constitutive of Egyptian women’s feminism. “Foreign elements” are not refigured but become hegemonic over “indigenous elements”. It assumes that theory and the lessons of praxis are exported and imported whole and entire like ready-to-wear dresses, “fashions,” exported from Europe to Egypt. It is oblivious of the notion of “traveling theory”: the global circulations and refigurations across national borders.

How is the indigenous constituted? I would like to start by saying that indigeneity is not monolithic but is an inclusive category that has space for difference, for hybridity.

Moreover, indigeneity is not static but is in a state of constant refiguring. I use indigeneity to indicate belonging to, or of, a locus, especially national space and a local cultural identity; it is the opposite of alien, foreign, external. Identifying feminisms in

Egypt as Egyptian affirms a national/cultural internal legitimacy. Badran's history of feminism in Egypt deliberately set out to capture (through thick narrative description) the multi-valent, multi-vocal, hybridity of "the us and the ours" of Egyptian feminism. Indigeneity affirms the notion of self-construction and the activation of self-agency.

In *Feminists, Islam, and Nation* Badran discussed Huda Shaarawi and other women from Egypt and from Europe with whom they interacted and among whom there were two-way influences. Many times, persons have lifted from the long list of "influential" women in Huda Shaarawi's life, Western women as her mentors and important influences and from this imply or conclude that Shaarawi's feminism is "Western" or the roots of feminism in Egypt are Western. If a Frenchwoman who is a feminist and lives in France interacts with Egyptian women or reads books of Egyptian feminism, and uses certain arguments drawn from observations of Egyptian feminism in refiguring her (French feminism) does this mean that her feminism becomes Egyptian? Is it that the post/colonized "other" is so lacking in self-constitution and self-agency that she does not possess her own template but is simply waiting to be written upon? It seems too obvious to state that a person can interact with people from other countries and read books published in many places and languages and not be robbed of an identity in the process. What the experience of Huda Shaarawi and other Egyptian feminists demonstrates is a broad, back and forth, global circulation of knowledge. Algerian writer and filmmaker Asia Djebar in "Women of Algiers" points to how Algerian women came to the aid of Frenchwomen: "this was [during] a period when we'd hear, all day long, that 'feminists from the West,' as they

were reverently called, had something crucial to give us, Muslim women, a lesson to teach us, ready-made recipes they would give us.”

While representing Egyptian feminism as indigenous feminist scholars have simultaneously narrated Egyptian feminists’ intersections with western “others” in national and transnational space. The “transnational” and the “global” do not dissolve the “indigenous,” rather they set up creative — or potentially creative — tensions.

Experiencing “the West” at home

Egyptian women experienced “the West” at home in the context of modernity and colonialism. First wave Egyptian feminists, whose earliest feminist awakenings intersected with Egypt’s quickening and contradictory encounters with modernity in the 19th century and whose feminist thinking and activism unfolded during British colonial occupation had from the start complicated relations with “the West.”

Early Egyptian feminists experienced “the West” at home. Their first encounters were educational: at the hands of private tutors, as with Huda Shaarawi; in foreign schools in Egypt, as with Hawa Idris; at state schools in Egypt (where English women were teachers and headmistresses), as with Nabawiyya Musa; and at school in the West, as with Ceza Nabarawi. These encounters with Western teachers and educational institutions — and the foreign languages and cultures they transmitted — had multiple and contradictory effects on Egyptian women.

Egyptian feminists also came into contact with “the West” on home turf when feminists from abroad visited Egypt. International Alliance of Women president Carrie Catt, an American, and Board Member Aletta Jacobs, a Dutch woman, arrived in Egypt in 1911. This visit enabled Egyptian women to see the ignorance of these Western women of feminism in Egypt and their astonishment upon discovering it. This was a powerful statement of the notion circulating in the West at the time (and a perennially persistent notion) that feminism could only be implanted by westerners in Egypt (and in other Oriental countries on these women’s itinerary). Egyptian feminists interacted with large numbers of Western women, whether or not feminists, over the years, including for example, Americans Elizabeth Cooper (who dedicated her book to feminist Malak Hifni Nasif) and Frances Woodsmall who was received by several feminists in the mid 1930s. While such meetings were cordial with both sides learning from the other, there were other interactions that were more contentious. (Baron 1996)

Egyptian feminists’ experience of the West in the form of British colonial occupation created a conflictual, confrontational relationship. Huda Shaarawi tells how her participating in the founding of the first “secular” women’s philanthropic association, *the Mabarrat Muhammad `Ali*, constituted a nationalist act as well as a feminist act. Nabawiyya Musa experienced the West in the form of domineering, colonial headmistresses from Britain as both a student, demanding access to a secondary school diploma withheld from Egyptian women, and as a “colleague” in the Egyptian state educational system. Egyptian feminist nationalists experienced the West during the 1919 revolution when they and other women and men demonstrated against the continued

British occupation of Egypt. They experienced the West when British troops massed in front of Abdin Palace, menacing the King. In fact, Nabawiyya Musa's public objections led to her arrest, incarceration, and effectively the end of her career and public life.

(Baron, 1994: 96)

Egyptian feminists' encounters with Western women through early educational formation and social interactions, and later through certain common ground with Western feminists they encountered in Egypt or abroad, forged bonds and collaborative interaction in confronting masculinist domination in their various forms in their respective countries. But as members of a nation experiencing Western colonialism Egyptian women were thrust into contestatory relations with "the West" and with western feminists. Thus collaborative/contestatory relations between Egyptian feminists and "the West" was a hallmark of Egyptian/indigenous feminism from the beginning.

A Collaborative/Contestatory Model: Feminisms Across Boundaries

These two strands in Egyptian feminists' interactions with Western feminists – the collaborative and the constestatory, sometimes stood out in stark opposition and at other times were complicatedly interwoven. There were various configurations at the conferences held by the International Alliance of Women according to specific objectives to be obtained. For example, Egyptian and French women formed a common cause around the call for female suffrage. In 1936, a group of European women who were at the helm of the International Alliance of Women, visited Cairo to join hands with Egyptian feminists in calling for women's suffrage in Egypt. These women, however, unlike

Indian feminist visitors to Egypt, and within the International Alliance of Women, shrunk from engaging in debate about colonialism. European women, such as an Englishwoman called Higson came to Egypt in 1930 to rouse Egyptian women to engage in the fight against what was then called “the traffic in women.” Feminists made it clear that Egyptian women from the early 1920s has been fighting the traffic in women and the stumbling block was the law of Capitulations, giving extraterritorial immunities to Europeans, which “protected” and facilitated this exploitation. Yet, at the same time, Egyptian feminists welcomed the support (however limited) for the cause. Women on both sides, from Egypt and the West, accepted “limited reciprocity” to gain what they could from transnational feminist links. They both understood, if differently, the implications of colonialism for global feminism; Egyptian feminists tried to demonstrate the negative affects of colonialism on international sisterhood, while western liberal feminists preferred to remain silent.

Categorization of Egyptian Feminisms: the Islamist, Muslim and Secular

In the Egyptian context, since the 1970s growing Islamist currents have further limited the discursive horizon of the debates and the choices available to women. This holds particularly true for those who are actively engaged in contesting existing gender relations and various forms of inequality and injustice within the hegemonic narrative of “the Nation”. Egyptian women activists whose efforts have been historically rooted in nationalism and the struggle against colonial powers, have inevitably run the risk of being stigmatized as anti-nationalist and anti-religious. They have increasingly been accused, particularly by Islamist movements and conservative nationalist forces, of collaborating

with western imperialism by importing alien ideas and practices and disseminating them throughout society. These very intimidating accusations have given rise to a specifically Egyptian feminist phobia that has silenced many voices.

Egyptian women's activism is very much shaped by the fear of transgressing the norms and values deemed permissible within the national fabric. The question of identity is as central to their activism as concrete struggles over women's rights and aspirations. For secular women activists even more is at stake as their rejection of Islam as the only possible framework for political struggle and nation-building evokes suspicion and doubt about their place within the indigenous landscape of 'tradition' and 'authenticity'.

The women referred to in this research are mostly activists, in the sense that they are actively involved in articulating discourses on and of women, on a broad socio-political level. The principal aim of these discourses is to improve women's legal, social, political and economic awareness and position. I thus distinguish between women who carry out primarily charitable work (I do not deal with them in this research as I am more interested in legal strategies of "emancipation") and those who attempt to change women's lives by consciously participating in a struggle for greater power and rights for women (those I refer to as feminists).

Because the history and praxis of Egyptian feminisms has traditionally been grounded in and has emanated from charitable social work, such a distinction as the one I propose is admittedly both difficult and controversial. The difficulty arises in trying to clarify the

fine line between social activism and political involvement, since sometimes both are intimately connected. The controversy arises in insisting on applying a term such as feminism(s), which is openly rejected as a self- definition by some women activists. Both difficulties are compounded by the fact that ‘feminism as philosophy’, or as a theoretical tool of analysis, as opposed to activism per se, has yet to develop on the Egyptian — and indeed on the Arab — scene. The preoccupation, prevalent among women activists, of ‘fighting for women’s rights’, or debating and resolving ‘the woman question’ (*qadiyyat al-mar’a*), effectively means that a feminist philosophy grounded in a literary discipline, and employed as a means by which to critique and counter dominant practices textually and actively, is absent. Prevalent are attempts at working at a variety of levels, on day-to-day issues of concern to women (e.g. literacy classes, legal awareness classes and income-generating projects). Thus, conceptualizations of women’s activism in Egypt must be seen as enmeshed in struggles for some form of ‘women’s rights’.

I understand and use feminism as an individual or collective awareness that women have been and continue to be oppressed in diverse ways because they are women, and attempts towards liberation from this oppression involving a more equitable society with improved relations between women and men. The women I have chosen to refer to as ‘feminists’ are either affiliated to political parties or have stated political aims in their organizational and group agendas. By identifying and isolating certain forms of women’s activism as ‘feminisms’, I am simultaneously highlighting differences, locating specificities, whilst placing them within a broader frame of reference. The latter facilitates recognition, and in so doing, permits comparison and inquiry. For ultimately, I do not unceremoniously label

them all as feminists, but I take into account disparate nuances, as well as pronounced differences. Indeed, it is in these terms that I refer to the plurality and heterogeneity of feminisms, as opposed to one unified and universal philosophy.

The term ‘feminism’ is, to all intents and purposes, one that has originated in the West. Thus, in post-colonial Arab Muslim societies the term is tainted, impure and heavily impregnated with stereotypes. Some of these stereotypes are that feminism basically stands for enmity between men and women, as well as a call for immorality in the form of sexual promiscuity for women. Moreover, some former and present-day religious personalities — e.g. Muhammad Qutb (1991) and Muhammad Al-Shaarawi (1992) among others — associate feminism with colonialist strategies to undermine the indigenous social and religious culture. In the opinion of such thinkers, colonizers used the ‘woman question’ as a tool with which to attack Islam and portray it as oppressive and backward. Hence, the association of ‘feminism’ with abuse of Islam. These stereotypes and associations have proved remarkably enduring. Not so much because of the limited grain of truth they encompass, but because such ideas appeal to pre-existing imagery and are effective tools in the attempt to discredit any means that legitimize and justify women’s attempts to gain control over their own lives.

What seems today as taken-for-granted requests (e.g. women’s right to education and to vote) were revolutionary when first introduced. Nevertheless, the quest for equal rights with men remains a thorny issue in most Arab countries. Hence the call, especially prominent during the lead-up to and holding of the UN’s Fourth World Women’s

Conference (FWWC, Beijing 1995), of 'equity' instead of 'equality'. Though still ambiguous, the main difference between equity and equality seems to center on affirming women's access to rights which do not necessarily equal those of men, as well as women's rights to differ from those of men without being subjected to any form of hierarchy. The supposedly alternative term equity was accepted and actually promoted by Muslim countries, and it was propagated and discussed during the FWWC by Islamists as well as their 'pro- family' religious colleagues.

Whatever the interplay of words and jargon, the fact that another term was needed to suit the enterprise of women's rights indicates that the terminology is more problematic than the efforts involved. In fact, whereas feminism is rejected as a term, some of its meanings and agendas are nevertheless adapted by the different actors within different historical and culturally specific contexts. If 'feminism' is rejected, this does not mean that a feminist consciousness and agenda are absent. (Badran 1993)

The term feminism is also questioned by many so-called Third World women. Feminist movements have been challenged on the grounds of cultural imperialism, of shortsightedness in defining the meaning of gender in terms of middle-class, white experiences, and in terms of internal racism, classicism and homophobia (Mohanty 1991: 7). All these factors combined to make feminism a suspicious identity-definition as well as an analytical category. Clearly Western feminist discourse and political practice are neither singular nor homogeneous in their aims or analysis. But, as Mohanty argues, there are:

various textual strategies used by particular writers that codify Others as non-Western and hence themselves as (implicitly) Western. [Certain] analytic principles. ..serve to distort Western feminist practices, and limit the possibility of coalitions among (usually White) Western feminists and working class and feminists of color around the world. These limitations are evident in the construction of (implicitly consensual) priority of issues around which apparently all women are expected to organize. (Mohanty 1991: 52)

Mohanty elaborates her criticisms to identify Western feminist assertions on a ‘monolithic notion of patriarchy or male dominance’, which supposedly oppresses all Third World women in the same way. She proceeds to argue that

It is in this process of homogenization and systematization of oppression of women in the third world that power is exercised in much of recent Western feminist discourse, and this power needs to be defined and named. (1991: 54)

Taking these criticisms a step further, one can argue that in so far as some Western feminism has essentialized, homogenized and universalized the means and outcomes of women’s oppression, it has acted as a meta-discourse. As such, it has sought to legitimate itself by many means, both within academia and in the spheres of activism. An example is writing and analyzing ‘forms of oppression’ on behalf of ‘Other’ women.

Many women from developing countries have gone on to engage with feminism — even while sometimes rejecting the label. Amrita Basu notes that despite widespread resistance to feminism among women, it is “equally striking how many women who believe that feminism is bourgeois or Western go on to identify indigenous alternatives to Western-style feminism within their own cultural and political contexts.” (1995: 20)

Kumari Jayawardena, writing about feminist movements in Asia in the late nineteenth and early twentieth centuries, defines feminism as “embracing movements for equality within the current system and significant struggles that have attempted to change the system” (1986: 2). Jayawardena asserts that these feminist movements emerged in two formative contexts. One of these conditions was the formulation and consolidation of national identities during periods of anti-imperialist struggles. The other context was the recreation of pre-capitalist religious and feudal structures in attempts to ‘modernize’ Third World societies.

In fact, as Mohanty points out, writings on feminism undertaken by women from the developing world have consistently focused on:

(1) the ideas of the simultaneity of oppression as fundamental to the experience of social and political marginality and the grounding of feminist politics in the histories of racism and imperialism; (2) the crucial role of a hegemonic state in circumscribing their/our daily lives and survival struggles; (3) the significance of memory and writing in the creation of oppositional agency; and (4) the differences, conflicts and

contradictions internal to third world women's organizations and communities. In addition they have insisted on the complex interrelationships between feminist, antiracist and nationalist struggles. (Mohanty 1991: 10)

This work falls in the cadre of Mohanty's second and fourth points and complements others, which endorse the importance of feminists of the Third World to rewrite history "based on specific locations and histories of struggle of people of color and postcolonial peoples, and on the day-to-day strategies of survival utilized by such peoples" (1991: 10) Hence the advocacy for feminisms devoid of hegemonic and universalizing characteristics, and open to differences of both interpretation and methodology.

I argue that there are diverse forms of feminism and multiple expressions for the activism advocated, which correspond to the types of oppression women perceive in different parts of the world. Particularly apt are postmodern conceptualizations of feminism, which advocate a theoretical outlook "attuned to the cultural specificity of different societies and periods and to that of different groups within societies and periods" (Fraser and Nicholson 1990: 34). Other important features of such postmodern-feminist theorizing are its non-essentialism, non-universalism, pragmatism, and even its fallibility. But most importantly, in its denial of a single feminist epistemology, it creates space for contemporary feminist political practices, which would have been regarded previously as unorthodox. This understanding of feminisms has also been advocated to some extent by feminist anthropology. Nevertheless, it was due to the work of postmodernist feminist theoreticians that feminist critiques of Enlightenment discourses have been strengthened

and refined. This has enabled diverse conceptualizations and articulations of feminisms (see Nicholson 1990 and 1991; Kristeva 1981 and 1982; Hekman 1992).

I have characterized three main ‘types’ of feminist thought and praxis operating in Egypt today. These are: secular feminism, Muslim feminism and Islamist feminism¹. Covering the broad political spectrum, this identification serves to highlight the multiplicity of voices through which Egyptian women activists speak and act. The distinctions, however, do not imply that these groups are clearly demarcated. On the contrary, I highlight their main characteristics while maintaining that often distinctions between the different feminists are in a state of flux, and are context- and issue-bound rather than clear-cut and immutable. Though on certain issues these feminists may converge and act together (e.g. appealing to the ruling National Democratic Party to lobby for the lifting of sanctions against Iraq) there are important differences among them. These differences include political convictions, social backgrounds, perceptions of the reasons behind women’s oppression and the means advocated to counter this oppression. Nevertheless, I maintain the importance of seeing the commonalities of their struggles and goals despite their varied means.

Islamist Feminism

I use the term Islamist feminists because many of the Islamist women I interviewed are aware of a particular oppression of women, and they actively seek to rectify this oppression by recourse to Islamic principles. Nevertheless, most of the Islamist women interviewed will shy away from the term feminist, if not vehemently criticize it outright,

as an irrelevant and inaccurate Western term. Though many still feel that feminism at best is ambiguous, and at worst is disrespectful to religion, what many women Islamists uphold is difficult to separate from what feminism, as defined here, connotes. I intentionally refer to these Islamist activists as feminists, not to homogenize them, but for the following reasons:

1. to distinguish them from their male and other women counterparts, who think differently, since not all Islamists are feminists by any means; and
2. to indicate later possible points of intersection with other women activists, an aspect I find crucial to the evolving power dynamics.

In the opinion of some Islamist feminists, such as Zaynab Al-Ghazali, whom I will discuss in greater depth in Chapter 5 and Chapter 6, women are oppressed precisely because they try to be “equal” to men and are therefore being placed in unnatural settings and unfair situations, which denigrate them and take away their integrity and dignity as women. For example, women are ‘forced’ to go out and compete in the labour market — a task which means that women may come into contact with men (as in public transport, for example) in a humiliating and inappropriate way.

It is the demands of a Western and culturally inauthentic ideology, made at the expense of Islamic teachings, which oppress women, as far as many of the Islamist feminists are concerned. Western feminism, with its emphasis on the total equality of the sexes, results in women striving to be ‘superhuman’ and, in the process, losing much of their effort

¹ See below sections for definitions of Islamist feminists, Muslim feminists and Secular feminists.

whilst taking on more burdens. For Islamist women, a just (Islamic) society is one that strives for a recognition and respect for compatibility between the sexes instead of competition.

Several of the women interviewed, when directly questioned, are reluctant to distinguish between women's oppression and social oppression as a whole. They uphold that what is happening to women is part of a societal process wherein proper Islamic principles are absent, or at best are misused by a morally bankrupt and corrupt state regime. They see their mission as a "structural jihad", which is aimed at a "change towards more Islamization", which in turn occurs through 'active participation in all spheres of life. (Karam 1998) This, then, is not merely a call for women to stay at home. Rather, it is a "call to arms", which enhances and reconceptualizes women's role within the family (as mothers and wives), and gives women a sense of value, political purpose and confidence: they are not less than men, but equally important in different ways. Islamist feminists are part of a political movement that is, on the whole, actively attempting to raise support for itself in its ultimate quest for the capture of state power and legislation. In their bid to combine the support of their organized and unorganized groupings, Islamists — particularly the moderates — cannot afford to lose the political, social and economic backing of these women, who actively participate in some of these Islamist movements. Simultaneously, Islamist women have successfully reversed traditional value judgements about women's space. Essentially, 'women's knowledge' of the home and child-rearing has been given a higher socio- political esteem than that of women working outside their home. Moreover, within the boundaries supposedly imposed by their understandings of

Islam, women are still able to be active in the public arena. In many respects, the Islamist movements resemble the nationalist movements of an earlier epoch, so far as their attempts to mobilize women for their cause are concerned. The end result of this is that, for the time being, attempts to curtail the public role of these women by the moderate male Islamists at least are not in evidence. (Karam 1998)

Muslim Feminism

Women activists whom I identify as Muslim feminists also use Islamic sources, such as the Quran and the *Sunna* (the Prophet's actions and sayings), but their aim is to show that the discourse of equality between men and women is valid, within Islam. Muslim feminists also try to steer a middle course between interpretations of socio-political and cultural realities according to Islam and a human rights discourse.

Many of them will be proud to be identified as feminists, or at least have no problems with the term, in so far as it describes their main aims. As far as these women are concerned, a feminism that does not justify itself within Islam is bound to be rejected by the rest of society and is therefore self-defeating. Moreover, Muslim feminists feel that to attempt to separate Islamic discourses from current discourses (whether they are accused of being 'Western' or not) can only lead to serious fragmentation within society, and is thus unrealistic. Such a separation, many argue, succeeds in preventing a process of mutual enlightenment between the two discourses, and in fact risks making the Islamic one more alienating and patriarchal, and the sole domain of the Islamists.

Muslim feminists look upon the issue of the veil, for example, as one that should be based on a woman's choice and conviction. Islamist feminists, on the other hand, take the veil as an indisputable religious obligation, and, even more importantly, a symbol of the depth of religious conviction and solidarity with other Muslim — if not Islamist — women. For Islamist women, the veil is essential and without it, women have not made that necessary commitment to a particular ideal of authenticity of identity. In short, there are no unveiled Islamist women. More to the point, however, the veil is seen as a means by which to bridge the gap between the otherwise separate male and female domains. The veil becomes, therefore, not only a symbol of their identity, but a holy, sanctioned and acceptable means by which to broaden and further their political, social and cultural space.

Both Islamist and Muslim feminists argue for a form of *ijtihad*, and many Islamist feminists agree with Muslim feminists, that women are indeed capable of taking on tasks involving the interpretation of Islamic jurisprudence and providing social and political leadership (previously thought to be the exclusive domain of men). In that sense, both these sets of feminists are arguing against existing patriarchal religious formations/hierarchies, and the implications of their interpretations on gender, and both use very similar 'tools' of analysis and argumentation. That is, both sets of feminists are extensively studying, analyzing and referring to traditional Islamic texts, in order to validate and justify their arguments.

However, what ultimately distinguishes Muslim feminists from their Islamist counterparts is the former's willingness to contextualize religious (and particularly Quranic) injunctions, in order to allow for the possibilities of textual reinterpretation. This renders their socio-political positioning highly problematic: to refer to traditional authoritative religious texts is permissible and encouraged, but to attempt to reread the meanings is not. (Ask1998; Karam 1998) Reinterpretation involves challenging the traditional, hierarchical, institutional and predominantly male religious power structures, a task which women in general are not encouraged to do — and especially not when these women have not gone through the traditional religious institutional training (e.g. Al-Azhar). Given that many of the Muslim feminists are attempting to reconcile the discourses of Islam with human rights, they are further facing the same accusations of 'cultural inauthenticity' faced by other promoters of secular discourses. This can become a political handicap when faced with increasingly dominant Islamist and other discourses, which advocate the concept of *asala* (authenticity) "at the expense of appreciation of conjunctural and historical realities" (Al-Azmeh 1993: 72).

Muslim feminists are perceived by establishment Islam as a direct threat to almost all inherited religious values, and most of all, to its power-base. They thus lack popular political support from those who are influenced by Al-Azhar, as well as from Islamist ideologues who give themselves, as males in positions of authority, the rights denied Muslim feminists — i.e. to reinterpret religious texts. Moreover, like the secular feminists, there is little support for these groups from the state. On the contrary, the

state's often ambiguous role and its ill-defined position on women's issues, only complicates matters for Muslim and secular women activists.

Secular Feminism

Secular feminists firmly believe in grounding their discourse outside the realm of any religion, whether Muslim or Christian, and placing it instead, within the international human rights discourse. They do not 'waste their time' attempting to harmonize religious discourses with the concept and declarations pertinent to human rights. To them, religion is respected as a private matter for each individual, but it is totally rejected as a basis from which to formulate any agenda on women's emancipation. By so doing, they avoid being caught up in interminable debates on the position and status of women within religion. Also avoided are potential accusations, leveled by religious conservatives, regarding their right to (re)interpret religious texts. Nonetheless, a number of cultural and political criticisms are directed at them: they are clones of the West, implementers of imperialist agendas, and — the ultimate delegitimizers — non-believers. (Karam 1998)

Though they admit in theory to the need to maintain at least a dialogue with Islamist women, in practice secular feminists disagree totally with their points of view. Not surprisingly, secular feminists would not identify their Islamist counterparts as being even remotely feminist. In turn, as promoters of a secular discourse, they are not held in high esteem by the Islamists. Any strategic — let alone ideological — accommodation between them (e.g. to agree to disagree) is total anathema to all concerned. In short, they are political 'enemies'. Their relationship with Muslim feminists, however, is generally

better. Though this tends to vary from moments of overlap and agreement (such as on the necessity to amend the Personal Status Laws) to moments of tension and dissent (e.g. on the relevance of an Islamic framework to such amendments).

In summary, even more complexly, many Egyptian feminists, since the birth of the Egyptian feminist movement in the early part of this century and until the present day, have invariably found themselves engaged in the project of defending Islam against its Western detractors. As the “position of women in Islam” has been the “privileged” site of interrogation and critique for both the anti-Islamic West and the reformist local feminists agitating for reform of family law, the latter have from time to time found themselves in “bed” with what they experienced as unattractive bedfellows. Western detractors of Islam often appeared to these feminists to be in “bad faith” in their critique, using such critique to assert cultural superiority and to rationalize projects of unwanted intervention in the Islamic world.

IN SUMMARY

Before examining the shifting strategies that the various women’s movements have adopted over the past century in Egypt, it is important to understand the role of identity politics and the framing of subject’s identities in the overall project of legal reform. Identity is created through agency and it is this agency that delivers the driving force behind the women’s movement. How women frame their identity will help us understand their motivations, goals and strategies toward achieving these goals, which in the case of this thesis is legal reform.

Consequently, the above sections have served to outline the theoretical foundations of my analysis of the women's movement in Egypt as well as the purpose behind framing the various trends of the women's movement and their shifting strategies toward legal reform. In order to do so, I have presented a brief discussion of social movement theory and frame alignment and demonstrated their importance to this research project.

In examining the feminist literature on social movements and legal strategy, I began to question whether we should abandon the essentialist idea of an identity of women as women. Rather than waste time trying to prove which feminism is more effective, we should understand that the fundamental target of feminist politics is the pursuit of feminist goals and aims within the context of a wider articulation of demands. These goals and aims should consist in the transformation of all the discourses, practices and social relations where the category of 'woman' is constructed in a way that implies subordination. These feminist goals may be constructed in different ways, according to the multiplicity of discourses in which they are rooted (Marxist, liberal, radical, etc). I, however, believe that the attempt to find the 'true' form of feminist politics futile and should be discarded. Instead of trying to prove that a given form of feminist discourse is the one that corresponds to the 'real' essence of womanhood, we should devote our energies to show how feminism opens up better possibilities for understanding women's subordination.

A feminist approach committed to a political project whose aim is to fight the many forms of oppression that exist within many social relations, and not exclusively linked to

gender, is an approach that permits us to understand how the subject is constructed through different discourses and social relations. Such an approach is more effective than one that reduces our identity to one single position, be it class, race or gender. This is especially pertinent to women in the Middle East who are not defined by gender but by social relations (mother, sister, Muslim, etc). Thus, a more worthy cause would be to examine the diversity of ways in which power and social relations are constructed and contribute to women's subordination.

Despite the varying feminisms that are at play, I believe that feminist political theory in general is a normative in its prescriptions for solving the problem of women's oppression. Feminist theory, regardless of guise (liberal, radical, postmodern, etc), has three fundamental characteristics: a normative commitment to women's emancipation; a scientific commitment to the explanation of women's oppression; and a practical commitment to social transformation. And it is these fundamentals — and not what label we pin on feminism — that interest me. Feminist analyses are distinct from other philosophical or scientific ones in that they don't simply explain women's condition, but understand its systemically oppressive character and prescribe means of ending it. This understanding of feminism is of particular importance to this research project as it provides the lens through which we can view the Egyptian women's movements' strategies and mobilization for legal reform. Once we understand that the central issue is that of finding a strategy that resonates with the rest of society and works in winning women more rights, we will no longer be bogged down by competing frames of feminist identities.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER FOUR:
Personal Status Law: A Case Study in Shifting Legal
Strategies**

Chapter 4 — Personal Status Law: A Case Study in Shifting Legal Strategies

INTRODUCTION

Family law, which includes such important areas as marriage, divorce and succession, has enjoyed pride of place within the *Sharia*, a prominence that reflects the Quranic concern for the rights of women and the family.¹ Thus, the traditional family social structure as well as the roles and responsibilities of its members and family values, are defined in traditional family law, or more modern legislation, i.e. Personal Status Law. In its attempts to meet the needs of a particular social milieu, Muslim family law reflected the social mores of the time — the traditional roles of men and women and the function of the extended family in patriarchal societies of the Middle East. This understanding of classical family law, which demonstrates the interrelatedness of law and society, provides a valuable perspective for modern legal reform. The duties and responsibilities of men and women in classical law remained virtually unchallenged up to the twentieth century because they paralleled the socially accepted roles of individuals and the function of the family in a conservative and traditional society. Profound social forces in modern times have affected the status and roles of women and the family in Muslim society. This process has been accompanied by reforms in Muslim family law, which has sought to respond to as well as to foster social change. In order to contextualize the demand for Personal Status Law reform by feminists and modernists throughout the 20th century — which will be discussed in Chapter 5 — it is important to understand the significance of the Personal Status Law and its impact on women's citizenship

¹ *Sharia* refers to the revealed and the canonical laws of Islam which are derived from two major legal resources of Islamic jurisprudence: (1) the Qur'an, the holy book of Islam which is believed by Muslims to be the direct word of God; and (2) the *Sunnah*. General principles of *Sharia* are supposed to govern such matters as marriage, divorce, maintenance, paternity and custody of children for more than a billion Muslims around the world. This does not mean that identical principles apply everywhere or in the same manner. Clear variations exist not only because of significant theological, legal, and other differences among and within Muslim societies and communities, but also because *Shari* principles are often in practice modified by customary practices, or as a matter of state policy. For more details see Glossary.

rights. In this chapter I will demonstrate the implications of Personal Status Law Reform and the reasons behind using it as a case study of the shifting strategies of the Egyptian women's movement in its campaign for legal reform. I will first present a brief overview of the evolution of the Personal Status Law in Egypt, followed by an examination of the significance of Personal Status Law reform in changing women's status and guaranteeing equal citizenship rights. The following discussion is based on the wealth of resources I examined during my literature reviews and archival research.

HISTORIC OVERVIEW OF THE PERSONAL STATUS LAW

Classical Family Law

Prior to the codification of Personal Status Laws by the modern state in the Middle East, the rights and responsibilities pertaining to family, including marriage, divorce, custody, alimony, and succession, varied from one society to another, and is referred to by contemporary scholars as classical Muslim family law. (Esposito 1982) The variations in the application of the regulations was contingent on customary practice, tribal traditions, Islamic *fiqh*² (jurisprudence) dating to the 10th century A.D. and the preference of one Sunni *madhab*³ over another. In Egypt, this plurality of marriage regulations and practices continued until the promulgation of the first Personal Status Law in 1875. (Esposito 1982)

² *Fiqh* means understanding, comprehension, knowledge, and jurisprudence in Islam. It refers to the legal rulings of the Muslim scholars, based on their knowledge of the *Shari'a* and as such is the third source of rulings.

³ *Madhab* means school of thought. There are four Sunni schools of thought: Hanafi, Maliki, Shafi and Hanbali. Differences existed from the very beginning not only between the two sects of Islam, Sunni and Shi'a, but also among the different schools of thought of each tradition, and indeed within the same school of thought.

The study of classical family law demonstrates the practical bent of Islam, from its earliest days, in applying the “divine” imperative. The comprehensiveness of the early Muslim jurists’ efforts is attested to by the highly-developed and detailed regulations governing every aspect of marriage, divorce, and succession. These regulations embodied both Quranic reforms and customary legal practices. Quranic reforms corrected many injustices in pre-Islamic society by granting women rights, according to which they were entitled, such as the right to contract their marriage, receive dowry, retain possession and control of wealth, and receive maintenance and shares in inheritance. At the same time, however, family laws were formulated to meet a woman’s needs in a society where her largely domestic, childbearing roles rendered her sheltered and dependent upon her father, her husband, and her close male relations. Thus, family law reflected woman’s dependent position as can be seen in regulations concerning witnesses, option of puberty, initiation of divorce, and rights of maintenance and inheritance.

Since men had more independence, wider social contacts, and higher status in the socio-economic world, their social position was translated into greater economic duties (for example, men have the financial duty to support women) and legal responsibilities (especially in maintenance regulations), as well as more extensive legal privileges proportionate to those responsibilities. The most notable examples of such rights and duties can be found in the areas of guardianship of marriage, extensive divorce rights, wider privileges of custody, and greater shares in inheritance. (Botman 1999)

The Modern Personal Status Law

Although today's Egyptian Personal Status Law finds its roots in centuries of *Sharia* doctrine, its actual codification can be traced back to the mid-nineteenth century Ottoman laws and dictates.⁴ It was during this period that reform in the Middle East was initiated through a promulgation of Ottoman commercial and penal codes. These codes, in form and substance, were derived from European codes as a result of increasingly close contact with the West (especially England and France) in the nineteenth century. In addition, secular (*nizamiyyah*) courts were established to handle civil and criminal law, so that the jurisdiction of the *Sharia* courts was limited to the area of family law.

These legal reforms were at first followed by Egypt as an Ottoman province, but in 1874 Egypt gained judicial and administrative independence.⁵ Nevertheless, foreign legal influence prevailed, and subsequently, from 1875 onwards, the Egyptian government enacted civil and criminal codes modeled on French Napoleonic law. Islamic law was still central to family law, however.

In 1875, Mohammed Qadri Pasha (under official government sponsorship) compiled a code based on the classical Hanafi school of Islamic Jurisprudence. The Hanafi school included 647 articles concerning family law inheritance. (Esposito 1982) Although this code was never officially adopted as legislation, it did serve as major reference for

⁴ The Ottoman Empire was founded in 1300 in what is modern-day Turkey by Osman the Great. It reached its greatest territorial extent in the 16th century conquering most of the Middle East and Balkans. Most of the Arab world, including Egypt, belonged to the Ottoman Empire until its collapse in after World War I. Modern-day Arab states were considered Ottoman protectorates, ruled by Ottoman officials and Ottoman laws.

⁵ The definition of reform I have chosen to work with refers to the improvement or positive amendment of what is wrong, corrupt or unsatisfactory. (Websters Encyclopedic Unabridged Dictionary)

Egyptian *Sharia* courts and for the courts of Middle Eastern countries following the Hanafi *madhab*. Its significance should not be underestimated, however, as it was the very first compilation of an official Islamic code. Nonetheless, despite all the official legal changes in the areas of civil and criminal law during the latter half of the nineteenth century, Muslim family law, which had been practiced through the centuries, remained unchanged. (Esposito 1982)

The first legislative reforms in Egyptian family law came about in 1920 with the codification of the first Personal Status Law. The codification of Muslim family law unified not only marriage practices, but other areas of family law as well. A major concern of the Quran was marriage and the family, especially the safeguarding of the rights of wives. Thus, to preclude abuses that had crept into Muslim practice, reforms in marriage and divorce were introduced by the newly established Egyptian legislature. (Esposito 1982) To prevent false-marriage claims and especially to control the social problem of ill-conceived child marriages, the government required official documentation of marriage transactions as well as the raising of minimum marriage ages. To counter Muslim men's abuse of their rights of repudiation (*talaq*), reforms were introduced that restricted their exercise of *talaq*, expanded the grounds of entitling women to a divorce, and improved women's custody and maintenance rights. Again, a return to Islamic canon is evident. In addition to reforms in marriage and divorce, attention turned to other areas of Personal Status Law which were also in need of reform: inheritance (*faraid*, the allotted portions), testamentary bequest (*wasiyyah*), and religious endowment (*waqf*). Despite these legislative reforms, the newly codified Personal Status Law was still far

from granting women the rights which Egyptian modernists and early feminists had been demanding since the late 19th century.⁶

Codification of Personal Status Law in 1923⁷

In contrast to the many social and political changes in the public arena, the patriarchal structure of the family remained fully intact. Because state officials were reluctant to alienate conservative social forces while in the embryonic stages of nation building, they were prepared to maintain traditional social relations in the family. In return for participation in the newly created liberal constitutional state, legislators and lawmakers yielded to secular and religious conservatives who would never countenance revision of traditional family life, especially family law. (Badran 1991)

The Muslim Personal Status Law of 1920 introduced modern formulations of gendered “personhood” within the family.⁸ On the surface, the law dealt with the financial rights of a Muslim wife and how lack of support (*nafaqa*), abandonment, and irreversible illness (*‘ayb mustahqam*) constituted grounds for her right to divorce. Chapter 1 of the law emphasized that she was entitled to support from her husband even if she sued for divorce. Financial support was treated as a debt that a husband was obliged to pay unless the wife chose to give it up (*Jumhuriyat Misr* 1956). Chapter 2 was devoted to the

⁶ See Appendix 1 for comprehensive overview of the Egyptian legal system and chart of the evolution of the Personal Status Law.

⁷ See Appendix 2 for Personal Status Law 1920 in its entirety.

⁸ The law was drafted by a committee made up of Shaykh Al-Azhar, the Shaykh of the Malki sect and his deputy, the head of the *Sharia* High Islamic Court, the mufti and other *ulamma*. It was reviewed by the minister of justice and approved by the prime minister. In other words, the legal discourse on women's rights within the family was now considered to be the joint responsibility of Islamic jurists and the new national secular state. The interpretations of Islamic law regarding family lay in the domain of the Islamic jurists, but it required the legal and political approval of the minister of justice and council of ministers.

discussion of how a husband's inability or unwillingness to support his wife entitled women to divorce. According to articles Number 4 and Number 5, a judge was immediately obligated to rule in favor of a wife getting a divorce if her husband was unable or unwilling to support her. For the same reasons, a wife was entitled to divorce from an absent or an incarcerated husband. Finally, chapter 3 of the law explained that a wife had a right to file for a divorce if she discovered that her husband had an irreversible (medical) condition such as insanity or leprosy that caused her harm (*dharar*) regardless of whether this condition had existed before or after marriage or without her knowledge. (Sobki 1986: 31-32)

The above represented some of the legal interpretations of Islamic law used in the nineteenth century to secure the rights of women in a marriage. Their codification into law and implementation by the modern legal system broke with the old Islamic legal system that had been practice oriented and provided women with greater flexibility and freedom. (Mitchel 1988: 82-83) The modern Personal Status Law fixed the large array of rules and interpretations that were previously available to women as a basis for the discussion of their rights within the family.

The 1920 law produced a new discourse that defined women as individuals (*ashkhas*) whose status in the family was not autonomous. Not only were they financially dependent on men but they did not have an equal right for divorce. Only men enjoyed that legal right. The configuration of well-defined legal rights was a modern assumption that was absent in the pre-modern Islamic legal system and its practices. For example, the

court records of earlier centuries show that women of different classes circumvented *Sharia* laws and social traditions and restrictions by creatively using the marriage contract to exercise their right to divorce (Sonbol 1998). All women were able to include in their marriage contract conditions under which they were entitled to divorce (Sonbol 1998).

The modern legal system, which supposedly embodies a comprehensive set of family law regulations, put an end to women's ability to circumvent restrictive practices by including conditions for divorce in their marriage contracts. In fact, the modern Personal Status Law rigidly defined divorce as a male prerogative and specified what it considered to be new binding rules for women's rights to divorce. It thereby produced a dependent formal/legal status for women, as separate individuals, whose rights were to be protected. With this more abstract definition of the marital relationship, the legal system began to produce a modern gendered consciousness that emphasized the autonomy of men and the dependence of women. (Hatem 2000)

Amendments to the 1920 Personal Status Law passed by the Egyptian parliament in 1929 attempted to rationalize a husband's exercise of the right to divorce, rather than give the right to women. If a husband was drunk or coerced to divorce his wife, then the divorce was not valid. A husband could not use the threat of divorce to influence the actions of his wife. A husband could not divorce his wife more than once at a time. A divorce was to be explicitly stated or it was not valid. Every divorce is reversible unless it is the third one; then it is irreversible.

According to Islamic jurisprudence, marital discord (*shiqaq*) between husband and wife was considered by Islamic jurists as an additional ground for divorce. A wife who claimed that her life with her husband was a source of harm that undermined her ability to live with him, like her other counterparts, could ask a judge to separate them. If she was able to show/prove harm, then the judge could grant her a divorce. If the judge turned down her claim, a woman could file again. At that point a judge could call on two men from their respective families to try and settle matters between them. If they failed, then the judge would divorce them.

Finally, women had custody of their sons, until they were age seven and of their daughters until they were age nine. To protect the interest of the child, a judge could permit a woman to retain the custody of a son until the age of nine and of her daughter until eleven years. (Sonbol 1998: 37)

In the 1920 Personal Status Law and the 1929 amendments, there was an attempt to nationalize the definition of the rights of a woman in the family and to identify her as a gendered individual with the less autonomous status of wife and mother. These were the generally accepted social roles that entitled women to legal rights. Evidently, Personal Status Law, from its inception, reflects and defines the patriarchal structure of the society and institutionalize inequality within the family. (Hatem 1986)

The Egyptian laws passed in 1920 and in 1929 broadened the grounds for divorce so that women, who were deserted, mistreated, denied financial maintenance, or whose husbands were imprisoned or infected with a serious contagious disease, could obtain divorces.

Women have always possessed the right to dictate certain terms in their marriage contracts. Further reforms — rejected by King Fuad and re-proposed, but never actually passed during the 1940s — would have allowed them to write clauses into their contracts restricting their husband's right to take another wife, but those amendments – despite the mobilization of women — never materialized.

Over time, legislation was been passed in Egypt to restrict child marriages⁹ and polygamy¹⁰ and, most importantly, to increase the grounds upon which a woman has the right to sue for divorce. Although Egypt had led the Muslim world in women's emancipation and legal reform, little occurred after the 1940's until Sadat's attempt to reform the Personal Status Law in 1979.

Personal Status Law Reform 1956 - 1970

Even though women were granted new rights as citizens, their primary identity during the socialist era remained attached to the family.¹¹ In the socialist era women were citizens,

⁹ Child marriages usually refer to coerced marriages of girls under 16 to adult men.

¹⁰ Polygamy is generally not practiced widely except in urban settings by certain social strata as a symbol of wealth and power. Historically, polygamy is less prevalent in Egyptian rural society.

¹¹ Social solidarity was seen as a key feature of society and that the family was the institution that provided this social function. Religion and social morality were to continue to shape that institution. Also from the state's declaration of its commitment to support the family and the protection of mothering and childrearing, it becomes clear that it viewed these activities as the basis of gender specific roles of women. In many ways this reflected the continued belief that the primary roles of women were in the family. What was novel was the state's commitment to help working women reconcile their public work and private occupations in the family. The need for state intervention to secure women's rights in the public arena

more independent and publicly active than ever before. Yet men continued to dominate the family and the workplace, and their authority was discernable in every sphere of life. Like the liberal age that preceded it, during Nasser's regime male dominance constituted a presumed aspect of male citizenship (Botman 1999).

More importantly, the state's initiative in the legal arena did not result in the change of the gender-specific rights that men and women had in the family. In 1955, the state had passed Law No. 462, which abolished the parallel *Sharia* (Islamic) and millet (representing other religious laws) court systems, which addressed personal status cases. This resulted in the referral of the personal status cases to a national court system. However, the litigation of personal status cases continued to be governed by the old Personal Status Law passed in the 1920s. The only change introduced into Muslim Personal Status Law during this period was a cosmetic one. (Hatem 2000) In February 1967, the minister of justice passed a ministerial decree that discontinued the practice of using the police to implement judgements by the courts requiring the wife to obey her husband and to return to the family home (*bayt al ta'a*).

Personal Status Law Reform of 1979

The Personal Status Law of 1979, granted women legal rights in marriage, polygamy, divorce and child custody; it was implemented by presidential decree along with another law that introduced changes — such as affirmative action — to women's representation

suggested its fraternal nature. By themselves, the legal rights given to women were not enough to secure their equality in the fraternal public space.

in parliament.¹² It is argued that Jehane Sadat was instrumental in passing the 1979 Personal Status Law, which reaffirmed a woman's right to divorce, gave her the right to travel without needing her husband's permission and raised the legal age for marriage from sixteen to eighteen, among other things. Furthermore, these reforms incorporated new grounds for divorce by a woman if her husband took another wife without her consent. A wife would be informed if her husband divorces her and would be sent a notarized divorce certificate. She would retain child custody until the ages of 10 for a boy and 12 for a girl, and be awarded the family apartment as her residence until she remarried. These reforms also addressed women's right to work, so long as it did not interfere with their "family duties," and ended the practice of *bayt al-ta'a* (house of obedience), wherein the husband was permitted to lock up his wife at home until she was more "obedient."

In 1979, the National Assembly ratified Sadat's emergency decree in the form of Law 44, which stipulated that:

1. The husband must register his divorce before witnesses at a Registrar Office and his wife must be officially and immediately informed.
2. A wife must be informed by her husband in the case of his marriage to another.

Failure on his part to inform her makes him liable to a penalty. A wife has the right to sue for divorce if she disapproves of the marriage and feels "harmed."

¹² The presidential decree, which is also informally referred to as the Jehane Law, created conflicts among women of different political persuasions and put them into a difficult position vis-a-vis this progressive law. Obviously, the common nickname "Jehane's Law" delegitimized the reformed Personal Status Law by indicating the authoritarian and personalized manner by which it was passed.

3. The divorced wife is entitled to an alimony equivalent to one year's maintenance plus a compensation equivalent to two year's maintenance, and this amount could be increased by the court.
4. The husband who divorces a wife must guarantee her a home if she has custody of his children. He must either find them a home or move out himself.
5. As for custody, the divorced wife automatically gains custody of her children under the age of ten boys and twelve for girls, subject to extensions by a court decision to fifteen for boys and until marriage for girls.
6. Concerning *bayt al-ta'a* (house of obedience), confirming an earlier administrative order, a husband can not get the police to return his wife to him by force. The court sanctions the termination of marriage if the wife refuses to return to the husband.
7. A father must pay child support until his daughters are of marriage age and sons reach fifteen or complete their education.
8. Women's right to work outside the home was confirmed and women were guaranteed equal salaries to men based on comparable levels of education. (Esposito, 1982)

In 1985, in deference to religious activism, the Supreme Constitutional Court struck down the highly controversial and much debated 1979 Personal Status Law (Law 44 of 1979) on procedural grounds. The rationale was that the law was issued by a presidential decree and was not discussed by the People's Assembly (Zulficar 1995). Arguing that personal status was not a matter of national urgency, the court concluded that Sadat acted improperly by invoking emergency presidential powers.

Amendments of Personal Status Law No. 100/1985¹³

Law No. 100/1985 requires a husband who intends to divorce to inform his wife through the Public Notary and to deliver a copy of the divorce papers to her or to her attorney.

(Her divorce is not effective until her knowledge of it.) Moreover, the divorced wife is entitled to *idda* maintenance for one year. Law No. 62/1976 gives priority to alimony as the most important debt, and penalizes a husband who fails to pay alimony to his wife by a fine and/or imprisonment for a maximum period of up to one year. In addition, a divorced wife is entitled to *al-mut'a* alimony for at least two years, depending on the husband's financial and social standing, the length of the marriage and the reasons for the divorce. The wife is also legally entitled to a deferred dowry, which is agreed upon in the marriage contract and is paid at the time of the divorce or on the husband's death.

As far as the custody of children is concerned, mothers have custody of boys until they reach the age of 10 (which a judge may extend to 15) whilst girls remain in their mother's custody until the age of 12 (which the judge, at his discretion, may extend until marriage). Either parent is entitled to see their children whilst in the other's custody. If visiting rights cannot be agreed amicably, then it is up to the judge to organize a schedule of visits in a suitable place.

Moreover, a husband who divorces his wife is held responsible for providing her and their children with a home. If the conjugal home is the only one available, then the wife is the one who has the right to live there with the children until the period of her custody of

them expires. It should be noted that in the Personal Status Law of 1979, the wife automatically retained the marital home in the event of divorce, regardless of her custody of the children. (Botman 1999)

If the divorced mother remarries she loses custody of her children, who then should be placed in the custody of their maternal grandmother. If that is not feasible, then they should go to the paternal grandmother, until they reach the statutory age at which custody reverts to the father. The point is though, that if the mother is for some reason unable to fulfil her function, the first preference is always given to maternal relatives before paternal ones. Nowhere is a male member assigned this kind of care. The underlying logic is that this is meant to be to the benefit of the child. In fact, this is a firm gendered basis of the law implying that only women (mothers and/or grandmothers) should look after young children.

There are six grounds in which wives may apply for divorce. The following conditions have to be witnessed and proved before a court:

1. If the husband is imprisoned for three years, in which case she can apply for divorce after one year.
2. If the husband stops supporting her.
3. If the husband deserts her for more than one year.
4. If the husband is suffering from an incurable disease (e.g. insanity or leprosy) which the wife was unaware of at the time of marriage.
5. Sexual deficiency (i.e. husband's impotence and sterility).

¹³ See Appendix 3 for Personal Status Law 1985 in its entirety.

6. Abuse or harm which renders living together intolerable from a social or cultural point of view, such as husband's mistreatment or his taking a second wife. The determination of the validity of the harm is left to the discretion of a judge.

The new law also stipulated that in the case of a polygynous union the first wife retained the prerogative to seek divorce, but it was no longer her automatic right. Under the modifications she would have to prove to the courts that her husband's second marriage "harmed" her materially and/or mentally and that good mutual relations could not continue. Her right to sue for divorce, previously based on the category of "harm" and resulting from the husband's taking of another wife, would only be valid within the first year of the new marriage. With regard to the couple's house, accommodations were now granted to the children during the period of custody and only by extension to their custodian. While the 1979 law awarded lodgings to the wife, the new provision stipulated that once the period of custody ended, the man would be entitled to the return of the house, upon which time the wife was required to leave. The conditions of alimony also changed, with the husband responsible for only one year of support. Alimony to the wife would not be paid if the husband divorced his wife for any of the following reasons:

1. The wife disobeyed the husband
2. The wife left the house without the husband's consent
3. The wife worked against her husband's will
4. The wife's work was seen to jeopardize family life.

By the 1980s, Egyptian reformers realized that if reform is to be truly accepted by the majority of Muslims and by the varying political forces occupying the social spectrum, and if they are to produce a law that is both comprehensive and consistently developed, these reforms must be based on a systematic methodology whose Islamic roots can be demonstrated. As will be seen in Chapter 5, a century of failed attempts and shifting strategies by the women's movements toward legal reform only served to reinforce this reality.

The New Marriage Contract: A Legal Strategy for Change

The women's movement had suffered a severe setback in 1985 when the Supreme Constitutional Court declared the Personal Status Law of 1979 — which had amended the Personal Status Law of 1920 and 1929 after fifty years of resistance to change — unconstitutional. Although the judgment ruled that the law was unconstitutional for reasons related to procedure rather than substance, it was a serious indication of the threat represented by the religious extremist movement and its new tendency to use legitimate legal and judicial methods to impose its policies. (Zulficar 1995)

As a reaction to this threat, a coalition belonging to the women's movement in Egypt mobilized and put pressure to pass a new law to substitute the repealed law. However, the substituting law which was issued July 4, 1985 (Law 100 of 1985) made a major concession, caving in to the pressure exerted by religious extremists. The radical Islamists were represented in the People's Assembly by five members at that time, as part of an alliance with the liberal New Wafd Party. The new law rescinded a right granted by

the repealed law which gave the first wife an automatic (without having to prove harm) right to divorce if her husband took a second wife against her will. The Personal Status Law of 1985 as well as that of 2000 requires the first wife to prove material or moral harm (*dharar*) in order to obtain divorce in such a case.

Hence, the New Marriage Contract appeared to be an appropriate strategy to claim women's rights under the principles of *Sharia*, which are not recognized by the laws or the prevailing culture. The contractual nature of the Islamic marriage contract remains at all times a neutral legal framework which may be used to restore the balance between the rights and obligations of the husband and the wife under any legal system and may be equally abused to further strengthen its patriarchal and male control. This strategy challenged the patriarchal, social and cultural dogma in an attempt to claim new grounds.

The New Marriage Contract has not been issued as a standard form yet. However, since 1985, the struggle has continued. The campaign for the New Marriage Contract developed into a campaign for a new law on procedures in personal status matters, which culminated with the passing of Personal Status Law of 2000.

However, it was not until the debates on the Personal Status Law of 2000 that we begin to see a legitimization of a women's rights discourse — grounded in Islamic framework and jurisprudence — by the Egyptian public sphere.¹⁴

Personal Status Law Reform of 2000¹⁵

It was these debates, that were now unfolding in the Egyptian public domain, that enabled women's rights activists and some non-governmental organizations to finally see the fruits of their years of often frustrating work to draft a modernized Personal Status Law. Under the new law, signed on January 29, 2000 by President Hosni Mubarak, women would be able for the first time to invoke *khulu'* (a woman-initiated category of divorce) on any grounds, as long as they renounce the *mahr* (dower), as well as renounce her financial rights (alimony). If a requisite intervention by arbitrators — usually relatives from each side — fails, the divorce will be granted after three months and is irrevocable. This is the most underlying feature of the current PSL reform of 2000.

The new, reformed law also makes obtaining divorce easier for both genders by establishing a family court system including social workers, a system of income verification so that child support can be more easily obtained and the creation of a family insurance plan to ameliorate conditions prior to and following divorce. Egyptian men will also no longer be able to divorce their wives in absentia. Known as *talaq al-ghiyabi* (in absentia divorce), this was considered one of the worst male abuses of divorce. It stemmed from an earlier practice in which a man could dissolve a marriage by simply stating “I divorce thee” three times, even if his wife was neither present nor informed. Amidst all of the debate over divorce and other aspects of the law, what is overlooked by public sphere actors (including the opposition) is how much simpler the law will make much personal status litigation. One of the merits of the new personal status law is that it

¹⁴ See Chapter 5 for in depth discussion on the New Marriage Contract.

¹⁵ See Appendix 4 for Personal Status Law 2000 in its entirety.

will cut bureaucratic red-tape to a minimum and lighten the burden on persons filing personal status cases. Supporters hope that the reduced number of articles in the new law – 81 from well over 600 articles in the previous law — and the establishment of a special family court to hear personal status cases, will also minimize effort and save money. Personal status cases will now be heard in front of one court instead of several different courts and judges, and, plaintiffs will be required to file their cases themselves and not through lawyers. In this way, argued supporters of the new law, plaintiffs will not have to pay for lawyers. Also, at no point during the judicial proceedings will they be required to pay the court any legal expenses — something unheard of in the Egyptian judiciary system. More importantly, however, both plaintiff and defendant must be present or represented when the family court issues a verdict. Under the previous law, a man could process divorce papers through the courts without his wife even learning about it.

In fact, according to Ghada Nabil, a lawyer at the Arab Office for Law, the new law dedicates dozens of its articles to explaining procedures and defining the jurisdiction of the new family court, in addition to the nature of cases it is supposed to hear. These include child custody, divorce and support and inheritance rights, amongst others.

Under the new law if men default on their payments, women would not have to suffer. The Nasr Bank will pay out support rights to women from a special fund to be established for the purpose. The bank will then collect the money through the court, after investigators determine the actual size of the income of reneging husbands.

The new law's most significant social change is recognition of *urfi* marriages, those performed according to traditional or customary law, instead of religious law.¹⁶ By simply allowing the termination of *urfi* marriages through divorce procedures, the government was to all intents and purposes recognizing the validity of the *urfi* marriage contract. Such reforms aside, the new personal status law still affirms the supremacy of men by retaining their right to take a second wife and enabling them to initiate divorce more easily than women. In a blow to feminists, Article 26 (the Nationality Clause) was removed from the draft law at the last minute as a concession to conservatives. This article would have allowed a woman to obtain a passport without her husband's signature, thus breaking the ban on female travel in lieu of the husband's consent or the presence of a close male relative. (Zuhur, 2000)

Religious and procedurally based arguments are often wielded against legal reforms on laws of personal status — marriage, divorce and inheritance. These laws have been codified in many Muslim states, and are based upon those formulated within particular schools of *Sharia*. The Islamic sources one chooses to cite on questions of women's status is of critical importance because there is a cleavage between the early sources and the later juristic tradition. Increasingly, feminists and modernists are asserting that the Quran and the example of the Prophet provide material favorable for feminist and modernist positions, whereas the juristic tradition and the associated cultural norms, which

¹⁶ These are similar to common law marriages in the West. Many young Egyptians sought *urfi* marriages because Islamic marriages entail considerable expenses — a dowry, expensive formal engagement, large wedding and purchase of all necessary household items including an apartment. In an effort to collect the necessary funds, many young Egyptians end up having to wait for years to marry and in the meantime are not supposed, according to local custom and Islamic law, to have sexual relations or even date.

developed in the context of traditional societies in the Muslim world, provide material for the conservative and radical Muslims.

In the past, Muslim Personal Status Laws have been passed, reinforced or amended in ways very unfavorable to women as a reflection of the growing power or threat of Islamic extremists. However, despite the above-mentioned setbacks, Egypt's reform of the Personal Status Law in 2000 also indicates that the new trend of feminism operating from within the framework of Islam is to a certain degree succeeding in introducing progressive legislative reform.

ENGENDERING CITIZENSHIP

The Personal Status Law, and its various reforms, not only affects progress in introducing legislative reform that is more respectful of women's basic human rights, but indeed is reshaping previously unchallenged notions of homogeneous citizenship, nationhood, and birthright. Consequently, in this section, I would like to investigate the impact of culture and gender in the production of the differing relationships of women and men to the law and practices of citizenship in Egypt, particularly that of the Personal Status Law. To do so, one must analyze the historical legal relationship between the state and women, by which the construction of the legal subject in Egypt has privileged a masculine citizen.

Enfranchisement, equal rights in law and education, participation in public and civil life and protection of the state are all areas which are encompassed under the notion of citizenship. Building on the concept of 'social contract' and the works of Jean Jacques

Rousseau¹⁷ and John Locke, the pillar of the modern state and society has been the equality of all persons before the law and equality in terms of rights and responsibilities as citizens.¹⁸ For the majority of societies, equal citizens' rights have been a focus of attention for liberal feminists who have campaigned particularly for women's equal voting rights as well as other legal rights such as: women's equal property rights; custody rights, access to education; equal pay and divorce and marriage rights.

Citizenship, in this case, becomes crucial because it is not only a legal process but also what Aihwa Ong (1996, 737) has called a "cultural process of subjectification," of subject-making (Foucault 1983). Classical political thinkers usually discuss the citizen in terms of an abstract personhood — the citizen as an "individual" with undifferentiated, uniform and universal properties, entitlements and duties. Through such homogenizing abstractions, prominent scholars theorizing citizenship (Marshall 1950; Keane 1988; Turner 1993) appear to have rendered the citizen neutral in gender and/or cultural terms and in terms of class, race, ethnicity and sexuality.

¹⁷ Perhaps Rousseau's most important work is "The Social Contract" that describes the relationship of man with society. Contrary to his earlier work, Rousseau claimed that the state of nature is brutish condition without law or morality, and that there are good men only as a result of society's presence. In the state of nature, man is prone to be in frequent competition with his fellow men. Because he can be more successful facing threats by joining with other men, he has the impetus to do so. He joins together with his fellow men to form the collective human presence known as "society." "The Social Contract" is the "compact" agreed to among men that sets the conditions for membership in society.

¹⁸ English philosopher John Locke was educated at Oxford, principally in medicine and science. He later became physician and adviser to the future 3rd Earl of Shaftesbury (1667-72). He moved to France, but after Shaftesbury's fall in 1683 he fled to the Netherlands, where he supported the future William III, returning to England after the Glorious Revolution to become commissioner of appeals, a post he held till his death. His most famous work is his *Essay Concerning Human Understanding* (1690). He rejected the rationalist view that a thinker could work out by reason alone the truth about the universe, arguing that knowledge of the world could only be gained by experience. In epistemology, Locke laid the foundations of British empiricism and of pragmatism. His most important work of political philosophy is *Two Treatises of Government* (1690), which refutes absolutism and the divine right of monarchs. Locke's classic expression of liberalism in the treatises was to inspire the leaders of the American and French Revolutions

The struggle by women to engender citizenship and thereby guarantee equal citizenship rights is not restricted to the Middle East alone. In fact, legislative reform ensuring equality of men and women before the law has been a constant demand by women all over the world. It is a story that transcends gender, time and boundaries. According to the ideals of the French, English and American Revolutions and the Enlightenment philosophers, the founding fathers of the modern state envisioned a society governed by laws and constitutions that would guarantee equal citizenship rights. However, this ideal was never fully applied. Until the 20th century, the concept of citizenship was a largely exclusive one that — in the best of circumstances — applied to white middle class men alone.

During the 1789 French Revolution, for example, French citizenship was defined in the document, Declaration of the Rights of Man and of the Citizen. From 1789 until 1944, French citizenship was limited to males — even though women were active in the French Revolution, and many assumed that citizenship was theirs by right of their active participation in that historic liberation battle. Olympe de Gouges, a playwright of some note in France at the time of the Revolution, spoke for not only herself but many of the women of France, when in 1791 she wrote and published the Declaration of the Rights of Woman and of the Citizen. Modeled on the 1789 Declaration of the National Assembly, defining citizenship for men, this Declaration echoed the same language and extended it

and the authors of the U.S. Constitution. An initiator of the Enlightenment in England and France, Locke was also a strong influence on D. Hume, G. Berkeley, and many other 18th century figures.

to women, as well.¹⁹ As many feminists have done since, de Gouge both asserted woman's capability to reason and make moral decisions, and pointed to the feminine virtues of emotion and feeling. Woman was not simply the same as man, but she was his equal partner.

Unfortunately, de Gouge assumed too much. She assumed she had the right to even act as a member of the Public and to assert the rights of women by authoring such a declaration.²⁰ She violated boundaries that most of the revolutionary leaders wanted to preserve. Among the challenges in de Gouges' Declaration was the assertion that women, as citizens, had the right to free speech, and therefore had the right to reveal the identity of the fathers of their children — a right which women of the time were not assumed to have. She assumed a right of children born out of legitimate marriage to full equality to those born in marriage. This called into question the assumption that only men had the freedom to satisfy their sexual desire outside of marriage, and that such freedom on the part of men could be exercised without fear of corresponding responsibility. It also called into question the assumption that only women were agents of reproduction — men, too, de Gouge's proposal implied, were part of the reproduction of society, and not just political, rational citizens. If men were seen sharing the reproduction role, then perhaps, women should be members of the political and public side of society.

¹⁹ The French version of the titles of the two declarations makes this mirroring a bit clearer. In French, de Gouges' manifesto was the *Déclaration des Droits de la Femme et de la Citoyenne* — not just Woman contrasted with Man, but Citoyenne contrasted with Citoyen.

²⁰ For asserting this equality, and repeating the assertion publicly — for refusing to be silent on the rights of Woman — and for associating with the wrong side, the Girondists, as the Revolution became embroiled in new conflicts — Olympe de Gouge was arrested in July 1793, four years after the Revolution, and more than two hundred years ago. She was sent to the guillotine in November of that year. (Antonius 1994)

Another example of women's historic demand for engendering citizenship rights can be found in Mary Wollstonecraft's landmark text *A Vindication of the Rights of Woman* in which she argued for equality of citizenship as a human right, with education enabling women to have an equal opportunity to develop rationality. Harriet Taylor Mill and John Stuart Mill writing almost one hundred years later also argued for women's equal rights and enfranchisement (Mill J.S. and Mill, H.T. 1970). In England the Women's Social and Political Union was formed (1903) and suffragettes aimed to win the vote for women by militant means. During the following twenty-five years their persistent campaign finally won the vote for women in 1928.²¹

Whereas European women were using the language of human rights, philosophy and science to justify their demand for equality, women in the Middle East were shrouding their demands with Islamic framework and Quranic doctrine. A clear illustration is presented by Nazira Zin Al Din's work in her native Lebanon in the 1920s. Zin Al-Din tried to understand why Muslim women at the time were kept at home wrapped in darkness that covered not only their bodies but also their minds. She studied the Quran and *Hadith* and arrived at her own conclusions regarding the position of women in Islam. Although she was only 20 years of age when her books were published, her work is a significant source of reference on the relations between men and women in Islam. Very little is known about her personal life except that she is from a Druze (Shi'ite) sect.

²¹ More recent feminist analyses of citizenship see the campaign for formal equality as more problematic. For example, Zillah Eisenstein sees an inherent contradiction between liberalism and patriarchy. She argues that women's demand for equal citizenship destabilizes capitalism: "Feminist demand uncover the truth that capitalizes patriarchal society cannot deliver on its 'liberal' promises of equality or even equal rights for women without destabilizing itself. (Eisenstein 1982, quoted in Humm 1992:189) Also see Carole Pateman on the patriarchal nature of the welfare state (1989) and Anne Philipps on equality and difference (1987: 1991).

Her thorough study of the Quranic texts and *Hadith*, concerning women, their rights and duties, led Zin Al-Din to a number of conclusions regarding the position of women in Islam, including her inference that women's inferior social status has nothing to do with their mind or religion. "Islam is not the reason behind the inferior status of women. The main reason is the gender-biased interpretation of the Quranic text by men of religion."²² According to Zin Al-Din, the Islamic *Sharia* is not what this or that Muslim scholar says, but what is in the Quran and in the *Hadith*. She argues that men have drawn up laws without the slightest participation by women. She argued that "Islam is based on freedom of thought, will, speech, and action, and that no Muslim has authority over another Muslim in matters of religion, mind, and will." Thus, for Nazira Zin Al-Din, there was no legal or textual basis for the imposition of the rules of men over women and there was no such thing as a custodial right of men with regard to the teaching and interpretations of Islam. Any transgressions of the instructions of Islam by a woman, or for that matter a man, were issues to be resolved through the private and personal relationship between God and that individual, without need or right of custodial or intermediary intervention.

Through well-chosen and well-placed quotations from the Quran and *Hadith*, Zin Al-Din establishes that Islam is the religion of freedom and that Muslims are only accountable to their God. The claims of some Islamists to be the custodians of Islamic practices are

²² Still in her twenties and writing in the late 1920s, Zin al-Din published her conclusions in two books *Al-Sufur Wa'l-Hijab* and *Al-Fatat Wa'l-Shiukh*. Both were controversial but the first more so because it questioned what were considered basic proofs in law upon which the practice of *hijab* was premised. When her first book was published, men of religion announced their stand against Zin Al-Din and started distributing pamphlets against her; they incited demonstrations against the book and threatened the owners of bookshops who carried it. They accused her of atheism and treason. Her answers were sober, based on logic and clear evidence.

therefore against the very spirit of Islam. The problem lies with the laws legislated in the name of the Islamic *Sharia*; laws that are in total contradiction to the spirit of Islam.

In the case of Personal Status Law reform, the relations of power being defined are those between the state and women through the broader relations between state, Islam and society.²³ Debates that concern women and the law in Egypt are numerous, as there are various legal issues that need to be tackled if demands of women's groups are to be met on the one hand, and Islamist political agendas are to be satisfied on the other. An important aspect of these laws, and one that indeed reflects the Egyptian state's ideological and cultural convictions (and manipulations), has to do with the Islamic character of certain laws — namely the Personal Status Law. Even though all other Egyptian laws are civil laws — styled after French civil laws — the only law that is quite explicitly based on the *Sharia* is the Personal Status Law.

The legal dimension of the power relationship involving women activists and women's issues vis-a-vis the state cannot be understated, for no survey of the power dynamics can afford to ignore the form of power that the state wields via its laws. The laws of a state are the, written codes of conduct that define part of the state's power and are a reflection of the state's ideological, cultural and social determination. In many cases, the laws of the state are the most important standard to which individuals look for protection and try to conform to. As Migdal says, "the major struggles in many societies ... are over who has

²³ Most definitions of the state, as Moore points out, include some reference to it as a bureaucratic/legal/coercive order: "Administrative, legal and coercive systems are the main means through which the state structures relationships between society and state, and they are also involved in the

the right and ability to make the countless rules that guide people's social behavior”
(Migdal 1988: 31).

Also on the same theme of the law and its regulatory significance, an analysis of Stanton's work by Eisenstein shows how the former believed that the law can regulate inequalities, as in the case of the Egyptian Personal Status Law, whilst Eisenstein herself points out that very often the purpose of the law in liberal and patriarchal society is to define certain relations of power outside the law (Eisenstein 1984).²⁴

Constitutions and laws of states, usually written in terms of the abstract citizen, may appear in paper equitable. Scrutiny of legal texts and empirical investigation of citizenship practices has exposed systemic means by which citizenship has been a highly gendered enterprise — juridically, politically, economically and culturally (Pateman 1988; Phillips 1991, 1993; Yuval-Davis 1991, 1993, 1997; Lister 1997; Voet 1998; Joseph 2000).

structuring of many crucial social relationships within society as well -for example, family relationships”. (Moore 1994: 135)

²⁴ The notion of 'patriarchy' in itself is highly problematic. Although it was often acknowledged that the rule of the 'pater', the father, has been traditionally applied to younger men, not only to women, this did not usually play a significant theoretical role in these generalized feminist usages of the term. (Yuval-Davis 1997) Social theorists like Sharabi (1988) and Eisenstein (1989) argue that patriarchy is the sexual and economic struggle between men and women to control women's lives in order to keep their role as mother primary. Men derive power from their economic activity and their control over all forms of cultural and ideological production. Patriarchal ideology reinforces the supremacy of men through the mass media, religious and educational institutions, and political organizations. (Arat 1996) Middle Eastern patriarchy - defined generally as a structure of power that operates at different levels of society and endorses the primacy of men - is sustained through both law and custom. Middle Eastern patriarchy has been forceful, in part, because of its rooting in kinship. The impact of patriarchy on the gendering of citizenship has been profound because kinship permeates all domains, all spheres: public/private, state/civil/society/kinship, governmental/ domestic.

In the Middle East, women's rights have been defined primarily as wives and mothers. The infantilization of women has been expressed in several countries in state/family law regulations that require women to obtain the permissions of their fathers/brothers or other male guardians to marry, and in some cases even to travel or open businesses.

The absorption of family moralities into religious moralities has been further enhanced by the religious control over family regulations. This has been most directly observed in the widespread delegation, throughout the Middle East, of family laws and the Personal Status Law to religious courts. Whereas all other laws were heavily influenced by colonial laws and experiences — for example, the Napoleonic code was adopted as the template for the Egyptian civil codes — family law, which continued to be controlled by religious courts, remained as the last standing bastion against “Westernizing forces”. (Botman 1999) Middle Eastern states have privileged the family unit over the individual as the basic unit of the political community. It has been the satisfaction of the family domain through locating family law in religious law, however, which has enshrined the family and codified its patriarchal rules.

In practice, the Personal Status Law has upheld men's property in their children. To paraphrase Pateman (1988:44), political right has emerged as fatherhood, as a paternal right in the Middle East. Children have been born subjects of their fathers. That in almost all Islamic law, upon divorce, child custody has eventually reverted to the father and that the father's family has had priority over the mother when the father is dead or not available is evidence of men's property in their children. Men's ownership of women's

bodies has been upheld by religious laws that have given men rights of access to wives' bodies that their wives cannot refuse. Marital rape has not been recognized in practice and, in many cases, by law in most Middle Eastern states. Some Middle Eastern states have permitted, either in law or practice (or given lenient sentences for-), honor killing in which male relatives have taken the lives of female relatives if they believed they had "dishonored" their families.²⁵ In doing so, these states have reinforced the notion that women and children are the properties of males of their paternal kin — a privilege not only of fathers and brothers but of extended paternal male kin. Pateman argues that wives and children were viewed by the classic contractarians as the property of their fathers/husbands. (1988:13-14) In the Middle East, family law has often codified the ownership of wives and children by fathers/husbands.

The Middle Eastern states that have deferred to religious institutions' control over matters of marriage, divorce, child custody and inheritance and have provided no civil alternatives have forced persons to submit to the control of religious authorities on these matters. In locating Personal Status Law in the hands of religious authorities, these Middle Eastern states have sanctified the family in terms of rules perceived as absolute and nonnegotiable (due to their rooting in religion) and to question them would be viewed as blasphemous. That religion has been seen as the domain of the sacred, the moral, the domain of truth and absolutes has meant that religion has meant that religion has not been a discourse of contract and negotiation. If for Pateman the "contract is the means through which modern patriarchy is constituted," one can argue that the moral, the

²⁵ Dishonoring one's family can be considered anything from eloping without parental consent to pre-marital sexual relations, to even dating. The perception of dishonorable behavior is relative and varied

sacred, the nonnegotiable sanctified arena of the family has been the means by which Middle Eastern paternal patriarchy has been constituted. (1988:2)

Personal Status Law, a critical feature of citizenship laws and practices has been anchored in religious law in most Middle Eastern countries, and Egypt is no exception. Egypt, like most Middle Eastern states, has incorporated the Personal Status Law of the dominant religious sect into civil code. Only Turkey (which has adopted the Swiss Civil Code), and Tunisia have legislated civil family law, but even these civil codes have been based upon, challenged by, revised by, and in varying degrees shaped by religious codes.

Personal Status Law, a benchmark of the feminist struggle, has been a site of contestation in the making of state and nation, and highest on the agenda of liberal reformist movements, political Islamic movements, and Islamic and secular women's movements. It thereby becomes a testimony to the centrality of women's bodies and behavior to scripts of nationhood and statehood and a testimony to the centrality of family to social and political projects in the region. Usually covering the regulation of marriage, divorce, child custody and inheritance family law (also called the Personal Status Law) has been a crucial site for the gendering of citizenship in Middle Eastern countries. (Joseph 2000)

THE ROLE OF COLONIALISM AND IDENTITY POLITICS

Close examination of the women's struggle in the Third World indicates that despite the varying manifestations of feminism and emancipatory activities, all three share one

according to the social milieu and societal norms of any given case.

common denominator: the interplay between nationalist anti-colonial agendas and women's position in society.

Most Third World cases cited in this volume reaffirm the existence of a link between the consolidation of power of emerging states, whether Islamist or secular, and laws about the status of women. It becomes evident that laws pertaining to women and gender discourse are integral to the way political groups define themselves and assume a political and socio-cultural significance for the regimes and opposition movements.

Although movements for national liberation and revolutionary states adopt the mantra of equality and freedom from oppression as their war-cry, they have often failed to extend autonomy and liberation to women. A case in point is Iran: women played an ardent role in the revolt, but they were still barred from assuming positions of power in the public sphere of post-revolutionary Iran.

The cases of Iran, Egypt and Turkey demonstrate that at times of revolution and state-rebuilding, and whenever power is being contested and shuffled, women are used to symbolize the political goals and cultural identity of the different faction vying for power. The images of women assume political significance by demarcating political factions, cultural projects and even ethnic groups — such as the Kurds in Turkey. As a result political and cultural ideologies of political movements and governments become preoccupied with women's behavior, appearance and what the acceptable code of

conduct for women is. Whereas in Turkey, Persia Iran and the formative years of the Egyptian feminist movement, women were predominantly linked to modernization and progress, in post-revolutionary Iran, and the wake of the Islamic movements in Egypt and Turkey, women have become central to cultural revival and religious fundamentalism.

Today, issues that had previously been relegated to individual choice (such as the freedom to veil or unveil) have become symbolic of the ideal society and the state that will deliver such a society. In the past — and this is true of Iran, Egypt and Turkey — modernity and national progress were represented through the unveiling and educating of women, while veiled women denoted social and economic backwardness. Such attitudes bred much of what we see today in the Muslim world whereby the search for identity and cultural revival have become grounded in the veiling of women and their role in the family. In Iran in 1979 and 1980, the expression of modernization and unwanted “Westernization” became the unveiled women, who came to be viewed as a cultural traitor committing treason to the revolution. The status of women assumed a prominent position in the revolutionary discourse and new state’s projects in Iran. For the revolutionary regime, the role of women and the redefinition of gender codes were integral to the new regime’s political agenda. To reclaim women from cultural imperialism, the Muslim regime sought to implement legal reform to restore Muslim family law (with a misogynist interpretation), veiling and sex segregation. Unfortunately, this only goes to show that even in Iran – the most broad based revolutions – women participation en masse does not necessarily translate into an improvement in women’s status.

In *Third World Women and the Politics of Feminism*, Mohanty examines the link between feminism and nationalism throughout the Third World. (1991) The nationalist struggles for political independence, the assertion of cultural identity and modernizing society provided the backdrop for the movement for women's emancipation. In the case of Egypt, resistance to colonialism and foreign domination set the scene for the birth of a strong women's movement, whereby reformism and women's rights were the same side of the coin. In the case of Iran, exploitative local rulers and traditional patriarchal and religious strongholds were the targets of change. In Iran, women's struggles and emancipation from the ruling elite went hand in hand. In Turkey, Ataturk and the Young Turks equated civilization and modernization with women's emancipation.

If we were to examine nationalist movements in the Arab and Muslim world, we would find that the nationalists movements almost always assign women with the task of reproducing the group's new generation of fine citizens, through domestication of women and by relegating them to maternal and family roles. Women bear the burden of reproducing cultural values, instilling tradition and symbolize the honor of the community. It is as if women are assigned the position of acting as role models for the nationalist patriarchy of the new regime.

The same is true of radical Islamists, and Islamist movements in general, which also sanctify reverting to traditional gender codes which celebrate motherhood and uncontested patriarchy. In Islamist movements, women become symbols of cultural

identity and the safeguards of values and tradition: roles which are imposed on women by male-defined cultural revival.

According to Nahla Abdo: “In almost all liberation movements where women were actively involved, a general reversal of their roles became the fact of life after national liberation and the establishment of the nation-state.” (Sabbagh 1996)

Like any new state when it first gains its independence from a colonial power, the nascent Egyptian state was faced with a dilemma: implementing its progressive ideology and campaign for modernization while maintaining its cultural authenticity and identity. In Egypt, as in other Arab countries, the indigenous culture and identity are intricately linked with Islam and its teachings. Even though the state was orchestrating a complete overhaul of society and introducing progressive legislature for the benefit of women, society’s attachments to the Arab-Muslim code of behavior —what is *haram* (permissible according to the laws of Islam) and what is *‘ayb* (shameful, and not permissible — meant that the state’s reforms were not as far-reaching as initially anticipated. This is a clear illustration that cultural codes cannot simply be legislated — they continue to dominate the private as well as public sphere and are far more powerful — and detrimental to women’s autonomy — than any codified law. Real change has to occur at the popular level through a long-term process of debate and discussion as well as policy and legal reform.

The Egyptian state, sensitive to the power of the conservatives, introduced and popularized more liberal interpretations of *Sharia*. Emphasizing *Quranic* justice towards women, the state reinterpreted the *Sharia* and translated parts of it into legislative reform improving the position of women in some areas of Personal Status Law. However, the state's primary motivation for instigating reform on issues of gender was to deliver a social message compatible with its own mantra of modernization; as political currency the 'women's issue' was subject to compromise in negotiation with conservative forces. This translated into a rather limited reform of the Personal Status Law.

SIGNIFICANCE OF PERSONAL STATUS LAW REFORM

Taken in this context, Personal Status Law reform becomes crucial to the maturity of secular women's movements in the Middle East. As demonstrated in the previous section, it has become the central theme in women's bodies and behavior to scripts of "nationhood" and "statehood". Subsequently, it has also demonstrated the significance of family issues in social and political projects in the region. It has also provided a forum from which issues of gender and citizenship can be addressed.

The renowned sociologist T.H. Marshall (Marshall 1964), the more contemporary theorists Stuart Hall and David Held (Hall and Held 1990), and others have posited that basic human equality is an essential requirement for full membership in a community. They have argued that citizenship presupposes equality of rights, responsibilities and opportunities and produces in individuals the feeling of inclusion and loyalty.

Women's citizenship rights and status often suffer from the acceptance by the state of what constitutes 'the cultural needs of the community' in matters of education, marriage and divorce (Sahgal and Yuval-Davis 1992). In Egypt, as in other societies, gender, class, religious experience and the particular political system in existence at a given time combine to define the status of men and women.

Perceived as naturally belonging to the world of the family, where freedom and equality do not prevail and where rights and responsibilities are narrowly defined, women have not been granted equal citizenship rights and have not been included in civil society in ways parallel to men. The way women fit into civil society was not considered by many political theorists who simply separated society into public (political and economic) and private (domestic, familial and intimate) domains.²⁶ This is where the Personal Status Law steps up to the plate and takes on these divisions, inconsistencies and previously biased notion.

Recently, feminist scholars of Middle Eastern and Western societies have challenged this public/private dichotomy and argued that the two realms are inherently interconnected and interdependent. Rejecting the tendency toward compartmentalization, they have insisted instead that men's domination over women in politics is grounded in and reflected by the power men hold over women in family.

²⁶ Much of the explanation of women's oppression has been related to their location in a different social sphere than that of men. Two such binary divides have been the public/private and natural/civilized domains. It is argued that this division is fictional to a great extent as well as both gender and ethnic

In the Middle East, an established patriarchal tradition has emerged with the Islamic faith to dictate family relations that include man as the acknowledged head of the household, protector and breadwinner. The woman serves him, refers to him and accepts his guardianship. While the status of women in Egypt cannot be attributed solely to Islam, it is important in defining women's place. Although theoretically, Islamic scripture considers men and women spiritual equals, it is in the application of Islam that we begin to see differences between men and women. For example, men are favored in *Sharia* marriage and divorce laws (which house the basis of modern day Personal Status Law).

The Personal Status Law is an outcome of gender relations and the ways they affect and are affected by national projects and processes. To understand the significance of the Personal Status Law throughout the century, it is important to examine how gender-based hierarchies have been formed in Egypt and how they have been ideologically legitimated and socially maintained. A critical step toward a better understanding of the Personal Status Law as a bedrock of Eastern patriarchy is probing women's efforts to effect structural change in a society in which gender asymmetry in laws, traditions, and even identities has transcended generations, social classes and places of residence.

Egypt, like other Middle Eastern states, took the historic decision (as part of the modernization process) of preserving the Islamic rules on the family while disposing of the legal rules of that system in most other fields. For the latter, they chose to borrow (in the manner of legal transplants) European laws that had displaced the rules of Islamic

specific, and that often this division has been used to exclude women from freedom and rights (Phillips 1993:63).

law. For those who were/are opposed to Europeanization, the Islamicity of the rules on the family have come to symbolize the last bastion of a dismantled legal system (the Islamic), the reform of which threatens to flood Egypt with the European and the secular. Attachment to the medieval patriarchal comes to mean attachment to the Islamic. Moreover, family law, rather than being allowed to be the last site of “secularization” through reform, becomes for those opponents of the reform, the opening chapter of an overall reconstructive project that aims to transform the secularized legal system to reflect its Islamic past.

While secularism has allowed for the possibility of either dismissing or radically re-organizing the various elements of (the otherwise patriarchal) medieval jurisprudence to make it more progressive, it is also secularism that has historically placed limits on and has defined the “ceiling” of such progressive reforms.²⁷ This is so because historically, in order for all other laws to be secularized, family law had to represent the limit of, the exception to, the “sacrificial lamb” of secularization. In order for family law to be legislatively reformed, or progressively interpreted by secular judges, or constitutionally protected by elite constitutional judges, the outer limits have to be “convincingly” defined for an (increasingly) difficult-to-please-religious audience. For it is through making pronouncements on the outer limits, always patriarchal, that the “reformer” gains legitimization for the reforms in the eyes of his watchful “hawkish” religious contenders. It is this unceasing obsessive look to the outer limits that preempts a full-fledged secular critique of patriarchal relations in family.

²⁷ The definition of secularism I have chosen to work with refers to the view that religious considerations should be excluded from civil and legal affairs.

The legal strategy pursued by the national secular male elites in Egypt (identified with the secular legal system) to reform family law whether legislatively or judicially has been that of “splitting the difference” between the demands of feminists and those of the conservative groups. By following this strategy they sought to achieve incremental reforms while aspiring to acquire legitimization for their policies by those conservative groups. While the modern Islamic regime of family law (sometimes referred to as *Taqlid*) resembles to a large degree the 19th century American Blackstonian regime in the family, the form has not been effectively transformed in a liberal direction, as happened in the US, due to the strategy of “splitting the difference”.

The Personal Status Law is ostensibly based on and derived from the Islamic *Sharia*, a fact that influences (and in some cases causes) many of the debates raging around it. The Personal Status Law is intended to set down the basic regulations for interactions between men and women in marriage (including respective duties of the spouses towards each other and towards their children), through to divorce or death. The Personal Status Law does not apply to non-Muslims, except in cases where the spouses do not follow the same religion or the same sect. The Inheritance Laws incorporated within the Personal Status Law are applicable to all Egyptians irrespective of their religion.

The Personal Status Laws were not simply traditions sanctioned over the centuries. They were laws in place during the liberal age, and that remain in place, with modest variations today. The Personal Status Law is important because men utilize it to validate their domination over women. Citing the applicability and immutability of Islam, they impose

their will and shape the character of family life. As a result, instead of allowing women to take their legitimate place as citizens of the nation-state, men have kept women separated from one another and divorced from the business of the country. Women's lives have been bifurcated into two dichotomous parts, split between their tenuous role as members of the nation-state and their more accepted family position as mothers and wives.

In effect, gender relations in the family were sustained through the maintenance of personal status laws, relating marriage, divorce, child custody, guardianship, and inheritance. Deriving from Islamic or *Sharia* law, the Personal Status Law defined women as legal subordinates to men. Traditionally, according to the Hanafi school of *Sharia* law that is observed in Egypt, a husband is charged with the responsibility of supporting his wife and children financially, and in return he is authorized to restrict his wife's movements, confine her activities and make decisions on her behalf. A wife, who is obliged to care for her spouse and children, must obey her husband.

According to some contemporary Muslim feminist scholars, religion has institutionalized the forces that dominate women. Fatima Mernissi argues that women's citizenship is dictated by religious law, *Sharia*. Although today secular civil codes govern much of life in the public domain, Islamic law continues to control the family and the status of women. Judges, lawyers, rulers and social commentators continue to rely on classical commentators of *Hadith* (the traditions and deeds of the prophet), such as the still influential ninth-century historian Al-Tabari, when exploring contemporary conditions.

Yet, Mernissi also argues that citizenship and Islam are not inherently contradictory; women's rights can be legitimized within a religious context. Islam need only be reinterpreted by scholars who accept changes in the modern age and appreciate the logic and urgency of social transformation. (Mernissi 1992)

However, the prospects of such a social transformation seem a little grim with the rising tide of religious extremism through the proliferation of radical Islamist groups since the early 1970s. The Muslim Brotherhood (the largest Islamist group in Egypt) has infiltrated the membership of the main professional associations, the student bodies of all Egyptian universities and colleges and even the People's Assembly. Conservative social and religious arguments resonate among broad populations and dominate the way men and women presently play out their social roles. Islamists locate gender at the center of their ideology and base their views on a literal interpretation of the *Sharia*. In an effort to promote conservative social practices, Islamists manipulate gender relations to advance their ideological and social positions.

In the last few decades scholars of Middle Eastern society have condemned the simple and often hostile focus on conservative Islamist ideology, identifying this trend as misguided orientalism — a methodology that conceptualizes Islam as monolithic, unchanging and separate from the socioeconomic processes that influence behavior. (Hammami and Reiker 1988) While it is important to sound a cautionary note in this regard, it is nevertheless indisputable that religion plays a crucial role in defining the cultural, social and legal systems in the Middle East.

As Amal Rassam adeptly reminds us, women and men constantly renegotiate the rules that define and circumscribe relationships. (Rassam 1984) Despite the fact that the boundaries of women's behavior have been profoundly restricted in Egyptian society, women can still influence the conditions in which they live, work, govern, mother and interact. To accomplish their aims they may act strategically, using domestic efficiency, for example, to offset the fear and resentment others harbor when they go outside the home to work for wages.

In fact, women, individually and collectively, have actively worked to define the rights and responsibilities of citizenship. However, these rights and responsibilities have often been defined top-down. However, the defining of rights and responsibilities of citizenship, including women citizens, has been a primarily masculine enterprise. The attempts by women to redefine citizenship (whether by focusing on state legislatures or *Sharia*) from feminist perspective causes a disruption in the masculinist discourse of citizenship (Hoodfar 2000). In fact, according to Yuval-Davis (1997) and Joseph (1997), defining the rights and responsibilities of citizens has been the task of the state through legislation, courts rulings and through what it has or has not been willing to do.

In the final analysis, men and women can only move toward a social and political equality when women are allowed to become equal to men as civil individuals, and the Personal Status Law is the last stand legal impediment to the realization of this goal.

Valentine Moghadam argues that the configuration of family life can be altered through state legal reform and the efforts of popular social movements (Moghadam 1993).

Women's self-identification must be broadened to include not only that of family member but also that of worker, employer and citizen. In order for this to be accomplished in Egypt, the Personal Status Law/Muslim family law — through which men continue to maintain their control over their female relatives — must be eliminated, or at least reformed. But the abolition of legal and social restrictions requires a transformation of attitudes that is difficult to achieve, especially in the current ideological context where conservative religious fundamentalism has gained ground.

Both Pateman and Sharabi agree that the private arena of the family, and by extension Personal Status Law, is where societal reorganization must originate. The family is a microcosm of society; it embraces members who teach and practice values, learn and replicate behavior and shape the roles assumed in public life. A reconceptualization of citizenship is necessary for women to become genuine members of society. To become autonomous citizens they must redefine their status as protected, dependent and subordinate females and reforming Personal Status Law is essential for such a reconceptualization of the Egyptian woman.

IN SUMMARY

Despite the political right to vote and be elected to public office and the civil right to paid employment in the public domain, women find their citizenship compromised by a cultural and religious movement committed to traditional gender roles in Egyptian

society. It is worth mentioning that women are not alone when it comes to political disenfranchisement, since even the men of Egypt find that their political freedoms have been suppressed by an authoritative regime. However, it is the denial of equal rights in the family , rather than political rights, that is the central issue here.

The overriding issue is that no matter how or why the relationship between nationalist projects and the struggle for women's rights shifts, the fact of the matter is that nationalist and revolutionary movements use women as a tool and symbol of their political and cultural platform rather than for guaranteeing women emancipation. In essence, women have become mere pawns caught in a political-cultural crossfire. Unfortunately, many states (such as Egypt) wishing to appease the rising tide of Muslim fundamentalists and retain their political power, have given in to the Muslim groups demands by introducing laws unfavorable to women.

In the case of Egypt, women have placed important emphasis on the Personal Status Law. If these laws were reformed as part of a new civil code, then the bedrock of the patriarchal family might give way. With such changes gender asymmetry will increasingly come to be viewed as irreconcilable with modern society. In this period of relative openness under Mubarak, independent women's organizations sporadically reemerged and have attempted to influence public life. In contrast to the Nasser years when frank public discussions were prohibited, feminists have become increasingly vocal about the need to revise the Personal Status Law and widen women's freedom to function in public space.

This chapter outlines the rationale behind using the Personal Status Law as a case study and indicator of the effectiveness of certain strategies for legal reform over others. A discussion of women and law is integral to demonstrate the significance of Personal Status Law reform. In this chapter I have discussed the reason that the campaign to ameliorate women's status needs to begin with Personal Status Law reform, which is the source of oppression. It is important to demonstrate the significance of the Personal Status Laws, since I have chosen to use Personal Status Law reform as a case study, a barometer in a manner of speaking, to track the progress of the shifting strategies in mobilizing toward legal reform that the Egyptian women's movement has made over the past century.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER FIVE:
A Century of Personal Status Law Reform and Debates
(1890-1990)**

Chapter 5 — Egyptian Women's Movement and the Demand for Personal Status Law Reform 1890-1990

INTRODUCTION

Women's movements in the Middle East vary in terms of specific historical trajectories as well as current ideas and practices.¹ Yet, they are similar in that they share several historical and political factors, such as their links to nationalist movements, their links to processes of modernization and development, and tensions between secular and religious tendencies. Specificities and differences can be found in overarching general themes, as becomes obvious in the context of Egypt explored in this chapter. The common denominator among Egyptian women's movements from their inception in the early 20th century has been their mobilization toward legal reform. In fact, the issue of greatest contention and controversy for both men and women, conservatives and feminists alike has been that of reform to the Personal Status Law. Personal Status Laws are of particular significance: they directly affect women as they deal with issues of marriage, divorce, child custody and inheritance.

The analyses of the women's movements' push toward legal reform in Egypt entail a brief exploration of the historical context, that is, the emergence and development of women's organizations and feminist thought. The discussion of the historical context sheds light on its continuing significance in terms of understanding the strategies toward

¹ A social movement evolves when a number of people, often interested in bringing about social change, get organized and coordinated to achieve some task. Compared to other forms of collective behavior, movements have a high degree of organization and are of longer duration. There are three stages in Movement Development: first, there is emergence, i.e. perception of problem; second, leadership is established; third, we see coalescence of the movement during which it grows, and becomes better organized; fourth, there is bureaucratization in which the movement becomes more formal; and fifth, we

legislative reform (specifically Personal Status Law) adopted by today women's movements in Egypt.

For that reason, throughout this chapter I shall explore women activists' participation and particular positions on mobilizing for Personal Status Law reform.² I will also try to document how different groups within the women's movement use different strategies in dealing with the state and in their demand for legislative reform. I place particular emphasis on the major debates and areas of controversy among both scholars and activists.

A consideration of history does not only enlarge an understanding of the current movement, it is actually impossible to grasp its demands, conflicts and identities without considering its history — a history which does not only relate to the attempt to create new gender discourses and awaken feminist consciousness (Nelson 1998: 92), but is also closely linked with nationalist, anti-colonial struggles and projects of modernization. The contemporary context involves a discussion of the specific national political and ideological topography, which provides the backdrop to present-day feminist activism. Furthermore, like any social movement, the Egyptian women's movement is founded on

see the decline, which takes place if the goal is achieved, there is poor leadership, or repressive agents of social control. (Morris and Mueller 1992)

² While I agree with Moheb Zaki (1995) that feminist activists represent only a small segment within civil society, his cursory examination of women's groups and their effectiveness reflects the general trend of ignoring women's organizations. This treatment is not unsurprising in the light of general conceptions of civil society and their philosophical underpinnings. The tendency to disregard women's roles and contributions is based on the assumed split between public and private domains which are also gendered (Joseph 1993; Pateman 1989). As Suad Joseph points out, "civil society is already identified or defined in a site from which women are thought to be excluded — the public domain. And it is characterized by sets of associations that are linked with male activity" (Joseph 1993: 24); hence women's activism is mainly overlooked.

a preceding intellectual philosophy that paved the way for its inception. The intellectual basis for the Egyptian women's movement to reform Personal Status Law was the work of Mohammed Abduh and Qasim Amin which represents the theologian and modernist schools of thought respectively. Their contribution will be discussed in greater detail in the following sections. In the decades following the publication of Abduh's and Amin's books, women activists took their cues from the modernist reformist ideology introduced by both scholars. Consequently, the first section of this chapter will be dedicated to examining the Egyptian intellectual and Islamist reform movement that lay the foundations for the women's movement in Egypt at the turn of the 20th century.

EARLY MODERNISTS: LAYING THE FOUNDATION FOR WOMEN'S ACTIVISM

Debate over the need to reform family law first emerged during the nineteenth century when the customs of female seclusion and the lack of education for women were also questioned. Muslim Egyptian marriages during the early Ottoman period (18th and 19th centuries) were formed according to the provisions of the Islamic *Sharia* and its principles as set by the Quran and *Sunna*, the latter being interpreted in accordance to four legal schools, or *madhahib*: namely, the Hanafi, the Shafie, Maliki, and Hanbali *madhahib*.³ Because the principles for each *madhhab* were different, preferences between *madhahib* also determined the marriage contract.⁴ Many reasons existed for these preferences, most of which can be attributed to historical continuity and preference of

³ The four Sunni Schools, *madhahib*, formulate the basis for Islamic jurisprudence and the rational behind *Sharia* laws.

⁴ Generally speaking, the Shafie *madhhab* predominated in the Nile Delta, the Maliki was predominant in Upper Egypt, and the Hanafi was the most used in Cairo and other important commercial cities.

local tradition. (Sonbol 1996; 106) Consequently, marriage practices and contracts at the turn of the 20th century were varied and largely tradition-based. It was not until 1920 that *Sharia* marriage law became part of the nation-building project.

The late Ottoman Empire gave women more rights than they had possessed under the Hanafi personal status codes, eventually passing two imperial edicts in 1915 allowing women to sue for divorce on limited grounds and then codified family law two years later.⁵ (Esposito 1983: 43) Following the post-World War I collapse of the Ottoman Empire, and after the Personal Status Law in Egypt was first codified in 1920 and was followed by a succession of amendments over the years.

As early advocates of social change, religious men from the Islamic reformist community and elite women of the Turco-Circassian and native aristocracy separately called for revisions in Islamic family law (later codified as the Personal Status Law) as well as an expansion in educational and employment opportunities for girls and women. Blending nationalism with feminism and incorporating Islam into their discourse in order to legitimize their calls for change, the women sowed the seeds for an independent feminist movement characterized by social homogeneity and ideological cohesion.

Meanwhile, Egyptian intellectuals, such as Jamal Al-Din Al-Afghani and Mohammed Abduh, founded an Islamic reform movement that asserted Arab society was capable of

⁵ The Hanafi *madhab* was the dominant *Sunni* school of law in the Ottoman Empire, and by extension Egypt.

overcoming its stagnation and renewing itself within the context of Islam.⁶ Muslim reformers and modernists also advocated the abolition of female illiteracy, seclusion, polygyny, but this did not mean they were committed to female liberation or women's rights. The Islamic reformers' goal was to modernize Muslim society to allow the notable political, economic and social advances Europe was achieving. Since they considered the prevailing position of women to be antithetical to modern life, they regarded change as necessary. (Kandiyoti 1991)

By identifying and criticizing the ills of a medieval society in a modernizing world, early reformers such as Rifaah Badawi Al-Tahtawi (1801-1873), Mohammed Abduh (1849-1905) and Qasim Amin (1865-1908), who attempted to provide a Muslim rationale for change, planted the seeds for legal reform in Egypt. Al-Tahtawi, the most significant figure for the first half of the nineteenth century, emphasized the necessity and legitimacy of adapting Islamic law to new social circumstance. He recommended using the principle of *takhayyur*, an accepted method of jurisprudence according to which a Muslim in a specific situation was permitted to go outside his own school of law and follow the interpretation of one of the other Sunni schools.⁷ This suggestion was adopted and used extensively by later modernists.

⁶ For Islamic reformers and even liberal nationalists alike, the prevailing question was how to reconcile traditional culture with the modern world. Arguing that the *Sharia*, or Islamic law, could be reinterpreted according to the needs of the day, the reformers declared that although the principles of Islam were unchanging their interpretation in terms of social conventions was open to modification according to circumstance.

⁷ It is worth mentioning that although the majority of Egyptians were followers of the Shafie school, the Hanafi school has been the authoritative source of the courts since the sixteenth century when the Ottoman Empire established it as the official law school. This action was reaffirmed by Article 280 of *Sharia Courts*

The reformers took the principle of *takhayyur* and applied it to legislative reform. A major example was the amended legislation of 1920 and 1929 which established additional grounds for divorce based on Maliki opinion. This reform legislation recognized four situations in which a woman could sue for divorce: (1) her husband failure to provide maintenance (*nafaqah*); (2) dangerous or contagious disease of the husband; (3) desertion; and (4) maltreatment. The juristic basis for this change was the doctrine of *takhayyur* (selection) suggested previously by Al-Tahtawi as a means for reform — the ability of an individual to go outside his own personal school of law and select a solution to a specific problem from the remaining three schools. The legislators now used this principle in departing from Hanafi law and adopting the more liberal and equitable teaching of the Maliki school. (Esposito 1982)

Whereas traditionally *takhayyur* was restricted to selection of the dominant opinion of another law school, the reformers extended it to the adoption of an individual jurist's opinion. This understanding of *takhayyur*, however, did constitute a clear departure from traditional usage which limited selection to the dominant opinion of one of the four schools⁸.

Another more innovative method of reform, from the viewpoint of classical law, was a variation of *takhayyur*: *talfiq* (patching together). In this process, the views of various

Organization Regulations in 1910, in which predominant opinions of the Hanafi school were officially endorsed.

⁸ For example, regarding Egypt's Law No.25 of 1929, jurists wishing to correct an abuse which resulted from the formalistic positions of the predominant views of the four schools, turned to Ibn Taymiyya of the Hanbali school as the main source of regulation that the effectiveness of the conditional expressions of divorce was contingent on intention and not the mere utterance of the divorce formula: "*inty taliq*" ("I divorce thee").

schools of jurists are combined to form a single rule or law. Examination of the methodology upon which twentieth century reforms in Egyptian family law have been based shows a deep concern that the legal changes not be viewed as the product of *ijtihad* (reinterpretation)⁹. Theoretically, reformers following Abduh might advocate Islamic reform through the use of *ijtihad*. In practice, however, Egyptian reforms have been misapplied in order to appear to be following past doctrines. Recognizing the discrepancy between Quranic reforms and women's social status in the nineteenth century, Abduh criticized the waywardness of Muslim society. In his book, *Tafsir Al-Quran Al-Hakim, Al-Shahir bi Tafsir Al-Manar*, published in 1912, Abduh writes:

“The Muslims have erred in the education and training of women, and in not teaching them about their rights; and we have failed to follow the guidance of our religion, becoming an argument against it.” (Abduh 1912)

It was left to the next generation, specifically Mohammed Abduh (often called the Father of Muslim Modernism), to grapple with the reality of change and to articulate an Islamic rationale for reform.

⁹ By the 14th century, Sunni jurists began to reject individual judgment in favor of the idea of orthodoxy and uniformity. *Sharia* became a closed set of rules. At the same time, the notion of *ijtihad* was dramatically restricted, practiced only by jurists, and then only when no other solution could be found. With the nineteenth century, many Muslim and Arab nationalists reacted against western imperialism by rejecting European science as innovation (*bid'a*), and supporting tradition, whether or not it was Islamic. However, *ijtihad* was revived periodically to deal with legal problems that seemed to go against justice. In the nineteenth century, Muslim liberals such as Jamal Al-Din Al-Afghani and Muhammad Abduh promoted the use of the Islamic principles of *maslaha* (consideration of public welfare) and *ijtihad* to support and direct legal and social reforms or political actions. For example, in 1891, Afghani organized a protest against a monopoly on tobacco sales to British traders in Iran, which would have had disastrous effects on the existing small dealers, as well as on growers and smokers of tobacco. At Afghani's urging, the chief *mujtahid* (Shi'ite religious leader) decreed that it was a sin to smoke the impure tobacco. When the monopoly was canceled, the *mujtahid* repealed his judgment (Hodgson 1974: 308-309; Keddie 1966). This was the practical notion of *ijtihad* that Muslim reformer Tahar Al-Haddad adopted in Tunisia.

Mohammed Abduh (1849-1905):

Modernism in the Middle East today appears to be weakened and less influential than it was in the past. The modernists or reformists are the proponents of the back-to-the-Quran and onward-to-modernity school of thought that was given shape and cohesion by the Egyptian theologian and legal authority Mohammed Abduh at the end of the nineteenth century. While Abduh and his disciples taught that Islam is compatible with modernity, they did not go very far in their proposals for modernizing and changing the status of women. The theoretical-theological argumentation of Abduh, — which was later further developed Tahar Al-Haddad in Tunisia¹⁰ — was much more advanced than their application of that theory to the women's question. Their theoretical breakthrough consisted in their separation — in the Quran and the *Sharia* — of the *'ibadat* (religious observances) from the *mu'amalat* (social transactions, of which family law is a major part). Their purpose in making this distinction was to establish that while the *'ibadat* are not open to interpretative change, the *mu'amalat* allow for considerable interpretation and adaptation by each generation of Muslims in light of the practical needs of their age. This led to some modernist interpretations of the Quran in the area of women's rights within the family. These interpretations, however, were put forth not for the benefit of women, but in order to bring about a moral rebirth of Islamic society.

¹⁰ In Tunisia, as in Egypt, and elsewhere in the Middle East, by the 1920s the debate on the status of women in society was vigorous and intricately linked to the nationalist struggle (Marzouki 1988; Bourguiba 1967, 1978; Salem 1984). When Tahar Al-Haddad published *Imra'atuna Fi Al-Sharia Wa Al-Mujtama* (Our Women in Law and Society) in 1930, anti-reform sentiment was so strong in some sectors that Haddad was dismissed from his position at Zaytuna University. Al-Haddad, a union activist and scholar, insisted on the moral ethic of the Quran, as opposed to customary interpretations of the *Sunna* and the *Sharia*, as the guiding principle for relations between men and women in marriage and society. Like Afghani and Amin, Al-Haddad used culturally accepted symbols and principles to express his ideas, which gave them the legitimacy of tradition despite their departure from conventional (or current) interpretations and customs. Thus, while Al-Haddad's outlook was secular, that is based on his understanding of domestic

Abduh saw the remedy against the moral disintegration of Muslim society within Egypt in the “re-Islamization” of the family. He proceeded from the premise that women’s status is causally linked with the well-being or decay of social life as a whole, and that this truth was demonstrated to Muslims in Quranic revelations. Among the reforms which Abduh proposed were, first, the education of women in the obligations and rights established for them by their religion. Second, he called for the education of men “in the true meaning of Islam,” which, according to Abduh, would make them give up their selfishness, material greed, power hunger and love of tyranny. Men would then begin to deal with their wives in the spirit of “love and compassion”, and equality as proscribed by the Quran. (Abduh 1912: 105) Third, and as a result of the above, would be the reestablishment of righteous marriage as “solemn covenant” which is part of the natural order of being and as the reconfirmation of the “exact equivalence” of the spouses. (Abduh 1912:75) According to Abduh, in this God-willed, natural order, the man is charged with leadership to protect domestic life and well-being and is to the wife as the head is to the body. The woman’s role, according to this natural order, is to be in charge of all domestic affairs, for which she has to be trained in order to cope with modern exigencies. Man, on the other hand, is in charge of all work outside the house. In Abduh’s view, therein lies the “exact equivalencies” of the spouses.¹¹

In his descriptions of the oppression of women by men in his own society, likening it to a poison that infects all – Abduh put special emphasis on the practice of polygamy. His

and international political, economic, and social conditions, he often delivered his ideas in language and terms that were Islamic (Salem 1984a, 1984b; Sayadi 1974).

¹¹ See *Tafsir Al-Quran Al-Hakim*, *Al-Shahir bi Tafsir Al-Manar*, published in 1912; and *Al-Islam wal-Mar'a fi Ra'y Al-Imam Mohammad Abduh*.

criticism of this manifestation of oppression led him to his most innovative Quranic interpretations and *fatwas*, (decrees), in which he called to abolish polygamy in Islam. He argued that while polygamy was a sound practice among the early believers, it had developed into a corrupt practice of unbridled lust without justice or equity in his own time. (Abduh 1912: 117) Although exceptions will remain possible, such as in the case of a barren wife, these cases must be decided upon by a judge.

Abduh was equally concerned with the harmful effects of divorce on public morality. He described the inequities of the divorce system on women at great length and in passionate language. But instead of engaging in innovative *ijtihad* on this issue, he merely exhorted men to mind their ways and live up to their religiously sanctioned obligations towards their wives, former wives and children. As for women's rights to divorce, he merely stated that a wife may request divorce from a judge if there is "harm" to her from her husband, such as unlawful beating, abuse, etc. The burden of proof, however, remains with the wife.

Abduh's ideas, over a century old, continue to inform the contemporary Islamic dialogue on women's issues. His methods of *ijtihad* remain the staple of modernists to this day, while continuing to be rejected by conservatives thinkers, especially the *ulamma*, even though one of the great lecture halls in Al-Azhar bears his name. As for the radicals, they are still so agitated by both his methodology and his doctrine that they accuse him of collusion with the imperialist circles. The issues identified by Abduh remain important today, and are far from resolved. Furthermore, like Abduh, the interest of contemporary

thought in the Muslim world lies within the Islamic framework as a whole and not with women's rights per se.

Qasim Amin (1865-1908):

While Abduh remained principally concerned with theological and legal reform, his disciple Qasim Amin, the Egyptian lawyer, essayist and politician, developed the social dimension of the modernist movement by focusing on the plight of Muslim women as a cause for the deterioration of the family and society. In effect, Amin extended his mentor's ideas and gave them a more radical social orientation. Moreover, Amin made his ideas on *ijtihad* and reinterpretation of Islamic jurisprudence more accessible to women and others who were agitating for legal change. Essentially, he was the link between the intellectual modernists and the women's movement in Egypt.

Abduh's theoretical stance on the adaptability of the rules of *mu'amalat* by each successive generation was developed by Qasim Amin, author of *Tahrir Al-Mar'a* (The Liberation of Women, 1899) and *Al-Mar'a Al-Gedida* (The New Woman, 1900)¹². In the *Liberation of Women* (1899), Amin connected the deterioration of Islamic society to the inferior status of women. In *Al-Mar'a Al-Gedida*, Amin demands women's rights to education in terms of higher education in all fields, in preparation of professional careers, either in cases of need (such as unmarried women, childless widows, etc.) or to "benefit the family". (Amara 1976) Amin identifies women's education as a lifelong pursuit of gathering experiences, applying knowledge and participating fully in social activities.

More importantly, he sees this freedom to work and grow as women's "natural right," which flows from the spiritual and intellectual equality with men. Thus, women's freedom for Amin became a question of human rights.¹³

Amin's first book on women's issues, *Tahrir Al-Mar'a*, reflects the ideology and methodology of Islamic reformism and shows the influence of Abduh. The significance of his first book stems from the fact that — irrespective of his secular tendencies — he used Islamic language and logic. All proposed reforms are justified by Amin in Islamic language and are presented as a return to the original order of Islam. Reform will be made possible through the education of women, which is their right, as they were created in the spiritual and intellectual equals of men. Education is, thus, the magic process that will transform women from the pets, servants and possessions they are in the urban middle and upper classes of Egypt, into full human beings. In this way, they will become full partners for their modern, educated husbands, whose attraction they will be able to maintain, once they have learned to clean and groom themselves properly; and more importantly, they will be transformed into competent and knowledgeable mothers capable of shaping a better generation of children. All they require, however, is an elementary education supplemented by ongoing contacts with real life outside of the home, through which they will acquire practical minds and freedom from superstition. (Amara 1976)

¹² Of these two works, the second was written as a rebuttal to the attack on the first. In reality, however, it goes far beyond a rebuttal in its call for modernity and marks an ideological shift in Qasim Amin's attitude toward Western culture in general and secularism in particular.

¹³ This secularist approach to women's issues was the result of Amin's increasingly positive attitude toward the West. For Amin, Europe and America provided the model which the East should follow, since "the countries where women enjoy freedom and all their rights...lead all other nations on the path of perfection." (Amara 1976)

When the French-educated Amin first spoke about bringing Egyptian society from its state of “backwardness” into a state of “civilization” and modernity, he did so by lashing out against the *hijab*, in its expanded sense, as the true reason for the ignorance, superstition, obesity, anemia and premature aging of the Muslim woman of his time. As Amin lashed out against the *hijab* as the main barrier to women’s growth and the main source of their ignorance, he used this term in the sense of seclusion in the home, sexual segregation and the face veil, rather than the traditional head veil we see today. As Amin pitted the objectionable, “backward” *hijab* against the desirable modernist ideal of women’s right to an elementary education, supplemented by their ongoing contacts with life outside the home to provide experience of the “real world” and combat superstition, he understood the *hijab* as an amalgam of institutionalized restrictions on women that consisted of sexual segregation, domestic seclusion and the face veil. He insisted on women’s right to mobility outside of the house and demanded the adaptation of *shar’i* veiling (which leaves the face and hands uncovered) as the only truly Islamic garb. To ensure that this form of dress would not lead to general corruption was men’s responsibility; Amin called upon the men to learn to control themselves rather than to merely rely on women to remove temptation from their paths.

Beyond elementary education, Amin believed women must also be given the same rights as men in the choice of their marriage partner. He perceived polygamy as a destructive “custom” that must be eradicated and may lawfully be forbidden by the ruler as a measure taken in the public interest (*istislah*, a form of *ijtihad* recognized by some *madhahab* in Islamic jurisprudence). (Amara 1976) Divorce for men should be

established according to a new government legislated procedure that would involve a judge, witnesses and a divorce document, and women must be awarded greater rights in initiating divorce along the lines of Maliki — not Hanafi, which is the strictest of schools on the issue of marriage and divorce rights for women — law in Egypt. In Amin's opinion, these measures in their totality would strengthen the Muslim family in spiritual, cultural and economic terms; thus, they would fortify the nation as a whole and enable it to stand up in the battle against the exploitative powers of the West. In this battle, Amin perceived the theologians and jurists as backward and selfish, and hence not merely useless, but a major national handicap.

Until today, the main themes in *Tahrir Al-Mar'a* remain controversial, but its argumentation on the basis of Islamic sources within the framework of Islamic culture continues to make it accessible and meaningful to Muslim thinkers. Thus, its ongoing controversiality, as opposed to the now obscure and neglected *Al-Mar'a Al-Gedida*, is an important indication of the structure, argumentation and the language of the contemporary Islamic dialogue on women. Only criticism of the Western model and arguments clad in Islamic language are admissible and taken seriously today.

Amin's books formulated the main issues of the discourse on women's rights. His books pointed out the contradiction between scripture and practice regarding women's treatment. In retrospect, his views and those of his opponents were shaped by the discourse of colonization, Western influence and even perhaps the juxtaposition of Islam and Christianity. For some he is the indisputable father of the feminist movement in

Egypt, being among the first to put the issue of women's emancipation on the agenda of public debate.

WOMEN'S DEMANDS FOR LEGISLATIVE REFORM IN EGYPT DURING THE MONARCHY ERA (1920 - 1952)

It had gradually become 'clear to many feminists that during the nationalist struggle, and certainly afterwards, that men's nationalism had a patriarchal character' (Badran 1988: 31). Philipp (1978) shows that the relationship between the nationalist movement and feminism was by no means as harmonious and positive as it may appear at first glance. Initially, male nationalists accepted women's nationalist activism (demonstrations, economic boycotts, etc.). However, "after 1919, when nationalist pressures emerged in the wake of promulgation of a constitution for Egypt, women's political rights were not mentioned. Their equality with men was not discussed" (Philipp 1978: 278).

Codification of Personal Status Law in 1923

In contrast to the many social and political changes in the public arena, the patriarchal structure of the family remained fully intact. Because state officials were reluctant to alienate conservative social forces while in the embryonic stages of nation building, they were prepared to maintain traditional social relations in the family. In return for participation in the newly created liberal constitutional state, legislators and lawmakers yielded to secular and religious conservatives who would never countenance revision of traditional family life, especially family law. (Badran 1991)

Even committees set up by the state itself, such as those in 1920 and 1929, whose intent was to institute moderate reforms in Islamic family law, accomplished little because secular politicians were reluctant to intervene in the private domain of the family. Their hesitation allowed Personal Status Law exemption from temporal regulation. As a result, polygyny continued to be in force and divorce remained the prerogative of the husband. In fact, a man was not even required to defend his position in a court of law. In contrast, a woman seeking divorce was compelled to meet strict conditions by proving either lack of male economic support or serious male illness. While other sections of the penal system such as commercial, financial, criminal and penal law became secularized, the arena of Personal Status Law remained largely unchanged. (Molyneux 1982)

The Egyptian Personal Status laws passed in 1920 and in 1929 broadened the grounds for divorce so that women, who were deserted, mistreated, denied financial maintenance, or whose husbands were imprisoned or infected with a serious contagious disease, could obtain divorces. Women have always possessed the right to dictate certain terms in their marriage contracts. Further reforms — rejected by King Fuad and re-proposed, but never actually passed during the 1940s — would have allowed them to write clauses into their contracts restricting their husband's right to take another wife, but those amendments — despite the mobilization of women — never materialized. Huda Shaarawi and Doria Shafik fought continuous battles to change family law (Personal Status Law) provisions and Shafik even debated Shaykhs from Al-Azhar in the subjects of divorce and polygyny. But such feminist efforts were largely ignored. This portion of Personal Status Law history will be discussed in greater detail in the next section.

Early Feminist Strategies Toward Legal Reform

In order to understand the channels through which the Egyptian women's movements articulated their demand for Personal Status Law reform, it is vital that I present a brief overview of the evolution of the Egyptian women's movement during the first half of the 20th century. Only by examining the platforms from which the various women's movements advocated and mobilized for legislative change, can we begin to comprehend the significance of Personal Status Law reform for the Egyptian women's movements. For this reason, the following section will trace the history of the Egyptian women's movements and their demands for Personal Status Law change in Egypt during the first half of the 20th Century.¹⁴ It is during this period in history that Egyptian women's activism mobilized and became organized into a formal social movement.

As mentioned earlier, feminist discourse and activism during the period of post-colonial state formation, and even up to the first half of the twentieth century, has repeatedly been identified with Huda Shaarawi¹⁵ and the Egyptian Feminist Union.¹⁶ However, the most

¹⁴ The picture that presents itself during the post-independence period (after 1923) is certainly a confusing one. Every shade of opinion regarding the emancipation of women was represented, and nationalists themselves were far from agreeing on the matter. Indeed, Kandiyoti argues that the nationalist project itself was ambiguous since it spoke both with the universalistic voice of modernism and the anti-modernist, romantic impulse to restore the authentic community (Kandiyoti 1991).

¹⁵ Margot Badran offers a thorough analysis of the emergence and evolution of Egyptian feminism as an integral part of the history of modern Egypt in her book *Feminists, Islam, and Nation: Gender and the Making of Modern Egypt* (1995).

¹⁶ In addition to founding the EFU, Shaarawi, the pre-eminent feminist leader of the 1920s and 1930s, also founded the first Pan-Arab feminist movement in Egypt. The 1920s movement, spearheaded by Shaarawi and her protégé Nabarawi remained a strictly upper-class phenomenon. From a very early age, Shaarawi's thoughts and readings had been influenced by French-born Eugénie Le Brun, who had repeatedly conveyed to Shaarawi the common European belief that "the veil stood in the way of Egyptian women's advancement." (Badran, 1995) Most historical accounts on that period focus on the accomplishments of Shaarawi's Egyptian Feminist Union (EFU), and trace the demise of the women's movement in Egypt to the period between the beginning of World War II in the late thirties and 1947, when Shaarawi died.

in-depth work on the history of the movement during this period encompasses a wider variety of voices and perspectives.¹⁷

Huda Shaarawi's subsequent break from the Wafd party in 1923 constitutes a change in the directives of the women's movement, steering away from nationalist politics and moving towards a primitive rights discourse.¹⁸ It is at this point in history that Personal Status Law reform is publicly articulated as a formal demand by Egyptian women activists and consequently developing into a legitimate discourse within the public sphere. Throughout the 1920s and 1930s the EFU pressed for legal reform of the Personal Status Law of 1920 and 1929. (Badran 1993) In contrast, when discussing the 1923 Constitution, the EFU in 1923, addressed the issue of women's political rights in vague terms.¹⁹

¹⁷ Based on the view that the first phase of feminist activism was merely elitist and philanthropic in character, Khater and Nelson (1988) had argued earlier that it was actually during the period from 1945 until 1959, which was to be neglected in many studies (Al-Sabaki 1987; Berque 1972; Jayawardena 1986; Khalifa 1973), that the women's movement came of age. Badran challenges some of Khater and Nelson's arguments by emphasizing that diversification in ideology and political consciousness were already characteristic of the earlier movement. However, with regard to her claim that the movement associated with Huda Shaarawi and Nabawiya Musa already transcended elitism, Badran's work fails to persuade. According to Badran herself, the eleven founding members of the EFU were mainly from wealthy land-owning families, raised within harem culture (Badran 1995: 96). Moreover, a look at the magazine *L'Egyptienne*, which was published by the EFU reveals that all its writers were either from the Egyptian elite or western women. Badran's concern to disassociate the beginnings of the women's movement from elitism is part of a general trend among both academics writing about the women's movement and Egyptian women activists themselves.

¹⁸ All theories aside, it remains that Egyptian women's reaction to the 1923 Constitution, which formally excluded them from political membership in the nation, varied by class. Although many women chose to leave the Wafd party after they were omitted from the 1923 Constitution, some women continued to write for the party newspaper, often critiquing state policies toward women in their articles. Munira Thabet, a young middle-class member of the Wafd who was preparing to study law in France, emerged as one of the few active voices that publicly protested the denial of Egyptian women's right to vote in the new political system (Shaarawi 1981:249-50). It was an issue that she often revisited in the Wafdist newspaper *Al-Amal* and her other public writings that defined the aspirations of the professional middle-class and their belief in the legal ideal of political equality.

¹⁹ Some historians and scholars attribute this passiveness to the EFU's Charter. Rule no.2 of the charter stated that its "goal was to raise the social and public level of women so that they could be worthy of participating with men in all rights and obligations" (Shaarawi 1981:249). Rule no.3 declared the union's "commitment to use all legitimate means to give women their political and social rights" (Shaarawi 1981:

In 1924, the EFU and the Wafd's Central Committee for Women, headed by Huda Shaarawi, issued a pamphlet stating that Egyptian women represent half of the nation (*umma*) and that they were caretakers of the new generation of men and women whether they were deputies in parliament or members of the general public (Shaarawi 1981:330). The denial of political rights to half the Egyptian population which did not participate in the drafting of the Constitution, could not vote in elections or occupy prosecutorial positions led the members of both organizations to focus attention on the need to reform the conditions of women and the reform of the nation (Shaarawi 1981:331). Science and education were viewed as the best methods of reform.

As a result, the pamphlet emphasized the need to provide women with equal access to education and to public work, where they could service other women. This was of course the same view espoused by article No. 19 of the Constitution, which supported women's education as a means of advancing the cause of women and the nation. After the success of these reforms, the electoral law would be amended so that women could participate along with men in the right to vote. The authors of the pamphlet were not opposed to the placement of some conditions on women's initial exercise of their voting rights, such as requiring a certain level of education and ownership of property (Shaarawi 1981). More importantly, the pamphlet also demanded the reform of the Muslim Personal Status Law.²⁰

330). In effect, the above mentioned charter offered an indirect answer to the question of how upper-class women explained their denial of citizenship rights. Rule No.2 of the charter suggested that the founders of the union agreed with the male framers of the Constitution that women were not worthy of political rights. The union vowed to remedy that by working to raise the social and public standard of women. Then, and only then, could women demand their social and political rights.

²⁰ Girls from the New Woman Society workshop placarded the demands at the gates of the new parliament when it opened in 1924.

Toward that end, the EFU supported reforming the Personal Status Law by raising the marriage age for women to sixteen years. In a memo sent to the minister of justice, Huda Shaarawi argued that before the age of sixteen, young women were not educated enough to perform their wifely duties to their husbands. She also suggested that at a young age women were not physically able to bear and care for children.²¹ (Shaarawi 1981: 264) For these reasons the state had a duty to change the law, to protect the rights of women and to assist them to perform their modern roles as mothers and wives. In short, the EFU's entry into the public arena was identified with a commitment to transform the modern cult of domesticity from a private ideal into a national, public one.²²

Nonetheless, it is argued by most scholars, the EFU was primarily preoccupied with cultural feminism as the basis for articulation of a modern ideal of womanhood.²³ The EFU embraced the discursive view that domesticity and education constituted the basis for women's future citizenship rights. Upper-class women's philanthropic activities, which were part of their construct of the ideal womanhood, emphasized teaching women

²¹ Throughout the first phase (1923-1939) there was a definite separation between the social and political issues in society. The EFU's main accomplishments were in addressing issues of social welfare such as illness and poverty, which it attributed to the neglect of state's responsibilities toward its people. However, when it came to feminist concerns, the EFU defined women's issues from the narrow, class-based perspective of upper-class women. Nonetheless, the EFU did succeed in introducing to the political sphere, albeit indirectly, the idea of social responsibility of the state.

²² The EFU founded the journal *L'Egyptienne* in 1925 under the editorship of Ceza Nabarawi and 12 years later, *Al-Misriya*, first under the editorship of Fatma Ni'mat Rashid and later Eva Habib Al-Masri. Endeavoring to reach out to a new generation of feminists, the EFU organized a junior group called the *Shaqiqat* (the Sisters) in 1933. Among its members were Hawwa Idris, a niece of Huda Shaarawi, who would later become a long-time EFU activist and set up a daycare center for working mothers. Other junior feminists included Amina Al-Said, who would become a pioneering journalist at Dar Al-Hilal, and Suhair Al-Qalamawi, who would break ground as a university professor. Zeinab Al-Ghazali, a future Islamist leader, joined the EFU in 1935, but left a year later to form the Muslim Women's Society, intent to struggle for women's liberation and national liberation within an Islamic framework.

²³ By 1926, Huda Shaarawi could unequivocally state that women's involvement in politics was not the union's primary concern. Interest in politics could only develop after success in organizing women's affairs in the family and position in society.

how to read and write, the modern principles of hygiene, and the proper care of children. Their national goal was to enable working-class women to become better wives and mothers and to help in the development of a modern nation (Shaarawi 1981: 53).

Although women could claim many successes, the largest disappointment to feminists at the time was the failure to win significant reform in the Muslim Personal Status Law, especially regarding the curbing of polygamy, control of men's easy access to divorce, and enabling women to initiate the dissolution of marriage.²⁴ No amount of Islamic reformist arguments could win the day for them. Throughout the twentieth century, reform of the Personal Status Law would continue to be the most contentious issue in Egyptian feminism.

A New Generation: Secular Feminists

After World War II, the monarchy's corruption and inadequacy instigated a radicalization of Egyptian politics. It was during this tumultuous environment that many Egyptian feminists came of age and became involved in the struggle for women's rights. They dismissed the EFU's tactics and goals as outdated, believing that the solution to social problems did not lie in the establishment of health clinics and distribution of charity.

²⁴ The pre-World War II era witnessed many feminist achievements. The first state secondary school for girls, the Shubra School, with a curriculum equal to that of the boys' schools was opened in 1925. Women gained entry to the university in Egypt in 1929. Suhair Al-Qalamawi became the first woman to earn a Ph.D. in Egypt in 1941 and went on to teach in the Department of Arabic Literature at Fuad I University. Doria Shafik became the first Egyptian woman to receive a *doctorat d'etat* from the Sorbonne. Hilana Sidarus, who had been among the first group of Egyptian women to be sent on scholarship abroad to study medicine, became the first Egyptian director of the Kitchner Memorial Hospital and later established a long and successful private practice. Na'ima Al-'Ayyubi, the first woman to graduate in law from Fuad I University, later became the first Inspector of Women's Work in the new Labor Office.

Similarly, according to these new feminists, the path to equal rights did not simply mean access to education.

Although these women marked a change in women's opportunities, yet like Qasim Amin they were mostly Western-looking, affiliated themselves with the West, and adopted an outlook that valorized Western ways as more advanced and more civilized than native ways.²⁵ Well known names of feminists of this period are Malak Hifni Nassef, Ceza Nabarawi, Doria Shafik and Mai Ziyada, all of whom pushed for fundamental reforms in laws governing women.²⁶ Most notably the Personal Status Law. Furthermore, they demanded education and suffrage rights for all women. Their demands were not met until Egypt had expelled the British and proclaimed itself a republic with a new constitution in 1956. The monarchy was overturned by a military coup launched by the Free Officers in 1952, the result of which was the exile of King Farouk and the ascension to power by Gamal Abdel Nasser.

The Egyptian women's movement during the post war period was ripe for the emergence of a more radical feminist voice.²⁷ The younger and more radical generation of Egyptian

²⁵ A refreshing and challenging new angle is provided by Kumari Jayawardena's latest work, *The White Woman's Other Burden: Western Women and South Asia during British Rule* (1995). She looks at feminist and anti-imperialist struggles of western women living in South Asia during colonial occupation in a way that profoundly dislocates the polemics of East versus West by either the previous colonizers or the colonized.

²⁶ Echoing the liberal ideology of the modern secularists was Doria Shafik, whose rhetoric and activism centered on granting women full political and legal rights. On the progressive left side of the political spectrum resounded the voice of Inji Efflatoun, whose activism reflected the Marxist argument that women's emancipation would become possible only with the overturning of the socioeconomic class system underlying their oppression. The Islamic conservatives, who condemned both tendencies, were especially critical of the more visibly modernist stance of Shafik, perceiving her claims as the most direct threat to supposedly Islamic values and traditions.

²⁷ The ongoing debate as to whether the feminist movement was interrupted with the collapse of Huda Shaarawi's journals, *L'Egyptienne* and *Al-Misriyyah*, in 1940, and World War II (Badran 1988) or whether

women — embodied in Ceza Nabarawi, Injji Efflatoun and Doria Shafik — began shaping a different public discourse on the goals of the feminist movement. In the 1940s, women moved to widen the societal base of feminist activism, giving birth to a more populist feminism. Feminist organizations and organizers proliferated. Fatima Ni'mat Rashid, Doria Shafik, and Inji Efflatoun appeared on the scene as leaders of three different strands of this new populism. Fatma Ni'mat Rashid created the first women's political party called *Al-Hizb Al-Nisa'i Al-Watani* (The National Feminist Party), in 1941. Establishing close links with the Workers and Peasants Parties, the NFP adopted a broad agenda of economic and social reforms. However, its main purpose was to accelerate the campaign for women's political rights. The NFP did not survive more than a year.

Meanwhile, the Bint El-Nil Union, according to Khater and Nelson, was addressing itself to “middle class women and their problems,” thereby reflecting a pragmatic departure from the earlier elitist EFU (1988: 469). The Bint El-Nil (Daughter of the Nile) Union was created by Shafik in 1948 as an initiative for a new and invigorated Egyptian feminist movement whose primary purpose was to proclaim and claim full political rights for women. It also promoted literacy programs, campaigned to improve cultural, health and social services among the poor and enhance mother and childcare (Shafik 1955: 191).

Doria Shafik's activism and her publications radicalized the movement (Nelson 1988) has gained new momentum since the publication of Cynthia Nelson's *Doria Shafik: Egyptian Feminist - A Woman Apart* (1996). While holding on to analytical categories of western versus indigenous, Cynthia Nelson's biography of Doria Shafik (1996) does also break through these dichotomies as it portrays the life of a woman who struggled throughout to synthesize her French and Egyptian cultural backgrounds. Her political activism as well as her poetry bear witness to the creative and innovative potentials of what only too often has been described as a clash of opposites. What becomes obvious in the case of Doria Shafik, and many other examples up to today, is that the perceived dichotomy of indigenous versus western is as much about class tensions and conflicts within Egypt as about differences in cultures.

The campaign for women's political rights was linked to the campaign for social reforms (Khater & Nelson 1988: 470).²⁸

The truth of the matter is that Shafik dedicated much of her time campaigning for legal reform for women.²⁹ Her ultimate ambition being entry into the public and political domain, it was within the context of post-World War II Egypt that Shafik was able to catapult herself into national and international prominence. Against a backdrop of social and political upheaval, Shafik attempted to shape a new woman's consciousness in Egypt on several fronts: first, through the pages of her feminist magazines³⁰; second, through her feminist organization and political party; and finally, through her books on the history and political situation of Egyptian women.³¹

²⁸ The Bint El Nil Union focused its goals on three main objectives: first, to establish the constitutional and parliamentary rights of the Egyptian women in order to safeguard the laws guaranteeing those rights; second, to diffuse cultural, health and social services among poor families through the promotion of literacy programs and the creation of micro-sized household industries to increase women's earnings; and third, to call attention to the poor conditions of these families, specifically with regards to maternal and child care, through all available channels of mass media. In effect, the crusade for political rights was complemented with an extensive plan of social reform, which Shafik began with an aggressive campaign for literacy among adult women of the lower classes.

²⁹ Shafik was best known nationally and internationally in the 1940s and 1950s as a militant feminist, who continued fighting for women's equality until she was put under house arrest in 1957 for her strong protests against Nasser's regime and her demands for the restoration of democracy in Egypt.

³⁰ Dissatisfied with the ancien regime's elitist milieu, Shafik decided to launch her own Arabic-language populist magazine, *Bint El Nil*, which served as a channel for her ongoing struggle for equal rights for women. *Bint El Nil* was the first women's Arabic-language journal that is self-consciously dedicated to awakening women's consciousness and making them aware of their rights. Shafik's magazines centered on the construction of identity, whether sexual or cultural, and was caught in the broader debate raging between Islamists and secular nationalists on the appropriate ideology for the political future of Egypt.

³¹ Generally, Doria Shafik does not present a subject of debate among women activists today. However, when asked, some contemporary activists severely criticized Shafik for her close links to French culture and the bourgeois upper classes. In an interview shortly before she died, the writer and activist Latifa Zayyad was reported to have said: "Doria Shafik is being glorified now. I know that Nelson writes a book about her: She was an aristocratic woman. She was very showy. She was divorced from me and my class. Doria Shafik had great sums of money from the American intelligence to publish her very chic magazine." Zayyad's view is widespread among many of the more radical leftist women activists in Egypt today. Zayyad herself opposed Shafik's orientation and approach as she was part of the communist movement in Egypt during the time of Shafik's activism. Women such as Inji Efflatoun, Soraya Adham and Latifa Zayyad, who had adopted socialist or communist ideologies, called for the more general struggle for social equality and justice (Batman 1987; Khater 1987).

Shafik is doubly significant as she was among the first women activists to dedicate a life-long campaign to Personal Status Law reform. More importantly, she was among the first secular women in Egypt to use an Islamic framework to formulate her arguments for legislative reform. Shafik's growing concern with changing the laws oppressive to women coincided with a heated public discussion on the New Egyptian Civil Code. Her longstanding interest to reconcile Islam and modernity was resonant in the public debate which echoed her contention that Islam in no way opposed the recovery of women's legal and political rights.³²

In her view, the issue of women's rights was not restricted merely to suffrage. Shafik wanted to change the laws that prohibited women from running for public office and serving in Parliament, as well as the Personal Status Laws that allowed the husband polygamy, the unilateral right to repudiate his wife, and the right of child custody. She wanted to abolish *bayt al ta'a* and that the measures taken by the police to enact the law be scrapped as well.

Her inquiries into the possibility of changing these laws revealed that the proposals of limiting polygamy and curbing unilateral divorce had been submitted to Parliament by Shaarawi more than two decades earlier. Her unheeded pleas to parliamentarians

³²On the extreme right was the voice of the Muslim Brotherhood, who cried against Western imperialism as the source of Egypt's political, social and economic problems. Their solution was a return to the Quran, *Hadith* and the Prophetic *Sunna* as the primary sources for the reestablishment of an Islamic system of government. Although consciously aware of the broader struggle for national liberation and openly critical of the corruption and social injustices plaguing society, Shafik was never sympathetic to the radical ideologies of either the Muslim Brotherhood or the Communists. Shafik's public criticism of customs oppressive to women in Egyptian society was grounded in her conviction — first articulated in her doctoral dissertation — that Islam, if properly understood, offered no barrier to women's freedom. Throughout her life, she continued to argue that the true essence of Islam stipulated equality between the sexes.

convinced Shafik that the presence of women representatives in Parliament was the only way to achieve legislative change. "By demanding the totality of her rights, particularly political rights which are the basis of any rights, the woman could bring about fundamental changes in society."³³ (Nelson 1996)

Islamist Feminists

It is during this period of the 1940s that the women's movement took different directions: the aristocratic, charity-oriented 'ladies of the salon' affiliated with Princess Chevikar; Doria Shafik's Bint EI-Nil, a mixture between charity, feminist consciousness-raising and political protest; the Lagnat Al-Shabaat (Committee of Young Women) founded by Ceza Nabarawi and Inji Efflatoun to revive the fading Egyptian Feminist Union as it attracted 'pro-communist women who were prevented by the government to establish an organization of their own' (Nelson 1996: 165); as well as the welfare and Islamist-oriented 'Muslim Women's Society' created by Zeinab Al-Ghazali.³⁴

With Al-Ghazali we see a totally different strain of feminism was beginning to emerge. Zeinab Al-Ghazali defended the rights of women according to what she perceived to be the correct Islamic doctrine. Although Al-Ghazali's early activism did not circle around the need to amend the Personal Status Law, it is worth mentioning her, as she

³³ Her editorials continually emphasized the negative consequences to society and family that arise when women are prevented from participating in legislating.

³⁴ Early in her youth, she was an active member of the Egyptian Feminist Union, founded by Huda Shaarawi in 1923. She resigned her membership in disagreement with the ideas and ideals of the women's liberation movement and at the age of 18 founded the Muslim Women's Association in 1936 in order to organize women's activities according to Islamic norms and for Islamic purposes.

unknowingly lay the foundations of a revitalized Islamist feminism, which I will discuss in greater depth in Chapter 6 and Chapter 8.

Al-Ghazali was an organizer of women and Islamic activist.³⁵ Whereas the other feminists campaigned for women's rights and human rights in the language of secularism and democracy, Al-Ghazali spearheaded the new feminism, campaigned for women and the nation in Islamist terms. While secular feminists consistently stressed the superiority of the West in their feminist goals, Al-Ghazali was committed to indigenous culture and to pursuing feminism in indigenous terms. She was determined to find feminism within Islam. In advocating reformist ideas reminiscent of nineteenth-century Islamist reformer Mohammad Abduh, she articulated a belief in a reformist Islam which favored women.

The thrust of Al-Ghazali's activism and her association was an educational one: to instill the doctrines of Islam in women's minds, teach them about their rights and duties in Islam and call for change in society leading to the establishment of an Islamic state which was ruled by the Quran and *Sunna*. Al-Ghazali believes that Islam permits women to take an active part in public life, to hold jobs, enter politics and express their opinion.

According to Al-Ghazali, Islam allows women to own property, do business and be

³⁵ At the time the Muslim Brotherhood founder Hassan Al-Bannah emphasized the important role of women in the Islamic reformation, and a branch organization, the Society of Muslim Sisters, *Al Akhwat Al Muslimat*, was established. Hassan Al-Bannah asked Al-Ghazali to head the new division. Although Al-Ghazali rejected the offer, she promised cooperation with the Muslim Brotherhood. Al-Ghazali, although independent, supported the cause of the Muslim Brotherhood, and the definition of the role of women in an Islamic society coincides with that expressed by the Muslim Brotherhood: "Islam does not forbid women to actively participate in public life. It does not prevent her from working, entering into politics, and expressing her opinion, or from being anything as long as that does not interfere with her first duty as a mother, the one who first trains her children in the Islamic call." Al-Ghazali's increased cooperation with the Muslim Brotherhood was interrupted by the intense persecution of the Brotherhood following the 1952 revolution.

anything they wish to be in service of an Islamic society. Yet she also believes that a Muslim woman's first duty is to be a mother and a wife, and that no other activity should interfere with her main role.

The phase of militant and heterogeneous feminist activists and their demand for Personal Status Law and other legislative reform during the 1940s and first half of the 1950s was followed by a period of quiescence. Egyptian feminist activism receded under the rule of Gamal Abdel Nasser as a result of the state's strict monitoring of political activism and the banning of any kind of autonomous organization. The state monopolized women's issues and formulated them as social welfare issues, especially through the activities of the Ministry of Social Affairs. Nonetheless, the position of women underwent great changes during the Nasser period due to the broader commitment to social egalitarianism as women were given increased opportunities and rights within the limits set by the government.

As this period in Egyptian history came to a close, women — without the vote, lacking representation in Parliament, and deprived of access to the main sources of power — ultimately had no authority to change social, legal and political life in the country.

WOMEN'S DEMANDS FOR LEGISLATIVE REFORM IN EGYPT DURING THE NASSERITE ERA (1952 - 1970)

The tendency in both scholarship and political discourse to define Nasser's regime merely in terms of its authoritarianism and repression of organized opposition has

recently been replaced by a more positive re-evaluation of the Nasser period. Various scholars have stressed that Egypt's 1952 revolution inaugurated a new age for women by altering the class structure and by the ideological, legal and practical inclusion of women in the new state (Ahmed 1992; Hatem 1992, 1994). Nasser's commitment to women's welfare as part of his wider struggle for social justice has been juxtaposed to his suppression of women's activism. Nasser's authoritarian regime prohibited all forms of independent political activism — including feminist organizations.

Inevitably feminist organizations were demobilized and prohibited from organizing. The lack of independent feminist organizations was paralleled by the state's appropriation of women's issues. Not only did the 1956 constitution and its revised 1963 version declare that all Egyptians are equal regardless of gender, but labor laws were changed to guarantee state-sector jobs for "all holders of high school diplomas and college degrees irrespective of gender" (Hatem 1992: 232). Moreover, in 1956 the state granted women the right to vote and to run for political office. The education system was reformed to increase enrolment, both for primary and secondary education, which particularly affected female participation in higher education (Ahmed 1992: 210). Mervat Hatem has labeled the state's formal legal or ideological commitment to women's rights 'state feminism'. The term also refers to informal state policies and programs which introduce important changes in the productive and reproductive roles of women (Hatem 1992: 231).

However, the impressive accomplishments of the Egyptian state in education, employment and social mobility, which accounted for the progressive nature of Nasser's

regime, were accompanied by the preservation of the conservative Personal Status Laws of the 1920s and 1930s. Hatem argues that:

state feminism under the Nasser regime produced women who were economically independent of their families, but dependent on the state for employment, important social services like education, health and day care, and political representation. While state feminism created and organized a system of public patriarchy, it did not challenge the personal and familial views of women's dependency on men that were institutionalized by the personal status laws and the political system (1992: 233).

Catherine MacKinnon argues that the law treats women the way men see and behave toward women — adversely. (MacKinnon 1983) In her view, whether in public life — through language, religion, culture, politics or the economy — or in the private domain of the family, law subjects women as a gender to the control of men. This analysis is applicable to the Nasser years. While nationalist men viewed women (and some women viewed themselves) as valued actors in the nationalist movement and as important contributors to the project of modernization, women continued to be treated as subordinates because the regime did not address personal status law or family relations.

The revolutionaries were political radicals but in ideologically varied ways; as a group they were socially conservative. In particular, they had no interest in extending their progressive attitudes to the private domain of the family, considering traditional domestic relations inviolable. Although Nasser highlighted the state's legislative and practical

advances in gender relations to demonstrate the regime's progressive philosophy toward women, he did not challenge the conservative forces in society by attempting to recast the dynamic of family life. In reality, he was unwilling to "rock the boat" and destabilize his hold on the country by provoking the wrath and opposition and thus alienating the conservative sects of society, such as the clerics and growing Islamist contingencies. Consequently, Nasser left untouched the Personal Status Law governing marriage, divorce and personal status. Women's rights to full citizenship were restricted because of the patriarchal construction of family life, which determined that women had no independent status once they married and were subordinated to the personal power of the husbands. Women's lives in the family structure remained unreformed.

The 1956 Constitution

As part of the new populist category of "the people," women were given the rights of citizenship that established their subordinate status within the fraternal political arena. An early signal that the new republicanism did not include women in its definition of the "people" came when the Constitutional Committee met to draft a new Constitution. The committee did not include any women among its members. This outraged the new generation of professional, middle class feminists.

Women's activism aside, the potential exclusion of women from the new category of "the Egyptian people" threatened to weaken the revolutionary claims made by the new republic regarding its commitment to the expansion of the rights of the "Egyptian people" of which women were a part. It also provided a potential basis for an oppositional agenda

that could be used by women of the professional middle class (lawyers, teachers, reporters and university professors) against the state (Hatem 1994). Consequently, the 1956 Constitution recognized women's political rights. It extended to women the right to vote and to run for public office that men had acquired in 1923.

The Constitution formally emphasized Islam as the religion of the state. Chapter 2 of the Constitution discussed the basic constituents (*al-muqawimat al-assasiya*) of Egyptian society. Article No. 5 declared the family was at the base of society and that it was constituted by religion, ethics and patriotism. (*Jumhuriyat Misr*, 1956:8) Article No. 18 declared that the state was to secure, in accordance with the law, the support of the family and protection of mothering (*al-ummuma*) and childrearing (*al-tufula*). Article No. 19 stated that the state will facilitate women's reconciliation of their work in the society and their obligations within the family.³⁶ (*Jumhuriyat Misr*, 1956:11)

Mervat Hatem confirms this assessment and argues that while the state used feminist ideology to catalyze national and international support it was still patriarchal at its core. In addition to the all-male military leadership that monopolized the political arena, male bureaucrats dominated the public sector. While women were integrated into the economy, they were situated at the lowest levels, with virtually no decision-making powers. Nasser appropriated a form of feminism which Hatem calls 'state feminism,' whereby he granted women economic independence from their husbands or fathers but made them dependent on the state for social services such as education, health care, day care and employment.

³⁶ While the civil right of women to work was acknowledged by the Nasserite state, it was not broadly internalized by men in society. Women's paid employment may have empowered skilled and educated women from either the professional or working classes and given them a measure of economic independence and autonomy, but that did not alter social relations in general.

For Hatem, although women benefited from its advances, state feminism or public patriarchy presupposed private patriarchy in the family and continued women's dependency on men. In the end, women remained politically weak and socially unequal.³⁷ (Hatem 1992)

More importantly, the state's initiative in the legal arena did not result in the change of the gender-specific rights that men and women had in the family. In 1955, in an effort to wrest power from the clergy and religious courts, the state had passed Law No. 462, which abolished the parallel *Sharia* (Islamic) and millet (representing other religious laws) court systems, which addressed personal status cases. This resulted in the referral of the personal status cases to a national court system. However, the litigation of personal status cases continued to be governed by the old Personal Status Law passed in the 1920s. The only change introduced into Muslim Personal Status Law during this period was a cosmetic one. (Hatem 2000) In February 1967, the minister of justice passed a ministerial decree that discontinued the practice of using the police to implement judgements by the courts requiring the wife to obey her husband and to return to the family home (*bayt al ta'a*).

Response to Nasserite Reforms by Feminists

In protest to the exclusion of women from the committee seeking to draft a new republican constitution, women members of the Reporter's Syndicate led by Doria Shafik

³⁷ Gender, therefore, played an important role in how the workplace was structured, how relations in civil society were shaped and how family was organized. Carole Pateman has called men "unfreemasters" by which she means that while some men are subordinate to their bosses as workers, men are always masters

launched a hunger strike in March 1954.³⁸ After eight days, the mayor of Cairo conveyed the following political promise to the women on strike: “President Naguib commissioned me to inform you that he received your demands for women’s constitutional rights and representations in the Constituent Committee and that they were referred to the relevant committee that will consider them”³⁹ (*Bint al-Nil* 1954: 7) The dilemma about what to do regarding women’s political rights continued until a few days before the new Constitution was announced (*Bint al-Nil* 1954). Rumors that the new Constitution would ignore the political rights of women threatened to bring about a new round of women’s activism.⁴⁰ Diverse women’s organizations publicly announced their plans to coordinate their public activities and efforts in the future (Hatem 1994:234). Leftist and liberal women formed competing organizations that appealed to middle-class women whose numbers within different professions had visibly increased.

However, during the latter half of the 1950s, when the Nasserite regime was consolidating its power, the issue of women’s rights was subsumed under the goals of the

at home. In the institution of marriage, men as husbands acquired a patriarchal right with respect to women as wives. (Pateman 1988)

³⁸ Shafik’s brazen challenge to Nasser in the height of the Cold War era was interpreted by her opponents as evidence of her allegiance to Egypt’s enemies in the West. The response by both state and society was swift and crippling. Nasser put her under house arrest, withdrew her civil rights and ordered her name banned from public print. Her former comrades in *Bint El-Nil* Union forced her resignation. This unsympathetic response delineates the deep-seated opposition of the progressive left and secular Nasserites to Shafik. To the majority, Shafik appeared suspiciously aligned to Western bourgeois values of liberal humanism and its emphasis on social and legal reform based on a democratic system of parliamentary government. Whereas the leftist progressive women organized people’s resistance groups among the lower classes within the general revolutionary struggle against imperialist domination, Shafik was busy championing values of individual freedom, articulated in the feminist struggle for political rights.

³⁹ This vague commitment to consider the demand of women reflected the ambivalent attitude the new military leadership had regarding women’s rights. They associated women’s rights with the aristocratic activities of the EFU and the social agenda of the ancien regime. They were suspicious of both. But more seriously, they were concerned about how the support of women’s political rights would undermine the support of the middle class for the revolution.

new socialist state. The public sphere in general — political parties, the press and women's organizations — were superseded by a larger state-controlled system.

Meanwhile, on the Islamist front, Zeinab Al-Ghazali — like many Islamists disenchanted with the 1952 revolution — considered the Nasser regime to be an enemy of Islam.⁴¹

When the Egyptian government led its second crackdown on Islamists in 1965, the Muslim Sisters were not spared, the Muslim Women's Association was dissolved, and Al-Ghazali was imprisoned until 1971.⁴²

By the late 1950s all independent organizations had been disbanded and the women's movement and demand for Personal Status Law reform is often described as having come to a grinding halt.⁴³ One socialist-oriented activist I had interviewed described a harsh rupture in the women's movement during the Nasser period:

⁴⁰ It provoked Amina Al-Said, editor of *Hawa* (Eve) — the first women's magazine published by a major publishing company, Dar Al-Hilal — and an elected member to the council of the Reporter's Syndicate, to give a lecture at the syndicate in which she declared her support of women's right to vote.

⁴¹ After the revolution, Al-Ghazali intensified her educational activities and participated in secret Islamic study groups guided by the leadership of the Muslim Brotherhood in prison. By 1962, Al-Ghazali had established contact with Sayyid Qutb in prison and received his approval of an Islamic course of readings in commentaries on the Quran and the *Hadith* as well as in Islamic jurisprudence, specifically the application of the correct Sharia in revision of the Personal Status Law. She also received from him sections from a book he was writing in prison, later to be published under the title *Ma'alim fil Tariq*.

⁴² Since her release, Al-Ghazali has continued to be an active speaker and teacher of Islam, calling for the establishment of an Islamic state as the ideal toward which all Muslims should strive in order to have a society which is divinely guided by the Quran and the *Sunna*. Although the Muslim Women's Association has not been reconstituted since her imprisonment, Al-Ghazali continues to lecture and work for the Islamic cause. Recently, a newspaper by the name of *Al Usra Al Arabia* (The Arab Family) opened in which Al-Ghazali was active. It was issued by the Muslim Brotherhood, but was quickly banned by the government after four issues. However, I will save the details of Al-Ghazali life upon her release from prison to Chapter 6, where I will discuss Al-Ghazali in greater depth.

⁴³ Law 32 restricts the formation and activities of voluntary organizations (e.g. women's or human rights associations) with regard to their fields of activity, number of members allowed, number of organizations within a particular region, record keeping, accounting, and funding. Law 32 also gives the government authority to intervene by striking down decisions by the board of directors or even dissolving the entire board. The law itself has been the object of a human rights campaign in recent years. In May 1999 the Egyptian government passed an even more restrictive and undemocratic law than the 1998 NGO draft law, which had been rejected by Egyptian NGOs and civil companies. See <http://www.geocities.com/~lrrc/NGO> for details about the newly passed law and the campaign against it. Also, see Atrachehi, *Business Monthly*, November 1997.

During the Nasser time, the movement was hit. There were women in the institution of the regime: careerists. These women only represented the pragmatic needs of the Nasser regime. These were only women who spoke about women's rights: *haqq al-mar' a bil ta'lim* [women's rights to education], for example, or *tahrir al-mar' a* [the emancipation of women]. They would say that reactionaries were against *tahrir al-mar'a*. They were mainly listening to the authorities. There was the regime supporting change and women were making propaganda for the regime, but women were not allowed to be organized.⁴⁴

The sense of hypocrisy and masked inequality characterizing the Nasser regime is particularly strong among women activists who do not perceive women's rights as limited to the rights to education, work and participation in decision-making processes, but also look to women's issues in relation to the Personal Status Law. Today, some activists challenge the 'blind spots' of those continuing to equate women's participation with an improvement of women's overall status in society.⁴⁵

⁴⁴ This description of the women's movement under Nasser fits in with Molyneux's notion of directed mobilization in which women's issues have been co-opted by the state. Even charitable organizations were placed under state control which resulted in a series of laws restricting any kind of independent activity. Although voluntary work has a long history in Egypt, it was only during the Nasser regime that the role of NGO (nongovernmental organizations), PVOs (private voluntary organizations) and LCDAs (local community development associations) came into sharp focus. Many laws and regulations, culminating in Law 32 of 1964 (still in effect today), thirteen were formulated to organize and monitor the various activities carried out by all voluntary organizations.

⁴⁵ Raga N., a researcher and activist, who lived through the Nasser period as a student and still very much admires Nasser, said: "People who talk development are mainly Nasserists, who argue that if you give women rights in the public sphere, they'll be able to change their situation in the household. It isn't simply a matter of being integrated into the economy though. As long as there are discriminatory Personal Status Laws, women will be in a weaker position. Even my public rights are curtailed by my husband's right to put me into *bayt al-ta'a*. All Arab women are schizophrenic. By law I'm equal at work — we have a set of laws that stress equality in the public sphere — at home there's a very different situation though. My problem is with women who don't perceive this contradiction. It's sensitive because of religion, but it's a matter of

The major exception to the rule of the public silencing of feminists was Amina Al-Said, who had come of age during the time of the EFU-led movement. While still a student she used to write and give speeches in Arabic for the feminist organization. In 1954 Al-Said founded a mass circulation magazine for women called *Hawwa* (Eve) published by Dar Al-Hilal. She became a member of the board of the Press Syndicate and later, vice-president. Al-Said tried to integrate the liberal feminist vision into the socialist state's "gender-neutral" project for the mobilization of citizens. She deplored the inequities of the Muslim Personal Status Law. She decried the double burden put on women who had taken up new jobs provided by the state, only to realize how the state had failed to help these working women meet their childcare needs. The socialist state's extension of educational and work opportunities across lines of class and gender would later lead to unintended consequences.

In the early 1960s Aziza Hussein, by that time, a highly respected Egyptian diplomat and pioneering family planning advocate, tried to interest women's club members, social welfare activists and administration representatives in a discussion of Muslim Personal Status Law, which she, like others before her, identified as a major source of women's subordination. She did not succeed. In the absence of an independent women's rights movement no organized challenge could be mounted on this issue, and the regime was unresponsive, reflecting its tendency not to tackle controversial social issues that might alienate social conservatives. (Al-Ali 2000)

interpretation. In Tunisia, for example, they banned polygamy. What we have isn't a matter of religion but power relations."

While independent feminist activism only reappeared at the beginning of the 1970s — coinciding with the beginning of Sadat's era, the rise of *infitah* (literally meaning open door referring to economic liberalization) policies and the increased emergence of Islamist movements — this new generation of feminists actually gained their intellectual, social and professional experience under Nasser.

WOMEN'S DEMANDS FOR LEGISLATIVE REFORM IN EGYPT DURING THE SADAT ERA (1970 - 1981)

Under Sadat, the role of the state as social and economic agent of change was reduced by withdrawing from the policies of social equality and equal opportunity, decentralizing the making of economic decisions and increasing the participation of the private sector.⁴⁶ Not only were many of Nasser's official commitments to gender equality abandoned, but *infitah* (open door) policies also led to an increased gap between rich and poor.⁴⁷ Yet, paradoxically, it was under Sadat that the Personal Status Law was reformed in favor of women's rights.

Women were affected in different ways by Sadat's *infitah* policies. Their integration into the economy, which had been part of Nasser's 'state feminism', was replaced by high

⁴⁶ The initial promise of Sadat's rule entailed swinging an 'open door' to western and Arab investment. The liberalized economy would be paralleled by the softening of 'the most oppressive features of Nasserist authoritarianism, as Egypt would restructure "the socialist economic mechanisms developed under Nasser" (Baker 1978: 132). Sadat allowed private businesses to invest in the economy in the hope that the new technologies and increased finance would boost the economy. However, this form of development ignored such intractable problems as poverty, unemployment and the massive disparities between rich and poor. When tens of thousands of the urban poor flooded the streets in 1977 to protest at the reduction of basic food subsidies they were joined by students and workers who demonstrated against Sadat's economic policies, conspicuous consumption and western influence (Baker 1990: 118).

rates of unemployment and inequality of opportunity in the workplace.⁴⁸ On the other hand, labor migration, especially to the Gulf countries, not only provided economic betterment and improved standards of living for many families, it also forced many women to take over tasks that were previously carried out by their husbands.⁴⁹ (Hatem 1992: 238)

Against this socio-economic backdrop, the next surge in legal reform activity came in 1971 and eventually resulted in important reforms decreed by President Anwar Sadat in 1979 during a parliamentary recess, and then later passed. In the 1971 Constitution passed under the Sadat regime, Sadat suggested the new constitution “express the true Egyptian way of life and tradition” (Saleh 1988: 310) This represented a return to more conservative cultural definitions. The changes to this chapter of the constitution supported this view. The most significant of these changes was represented by Article Number 2, which discussed the relationship between religion and the state. It stipulated that “Islam is the religion of the state. Arabic is the official language and the principles of Islamic jurisprudence (*Sharia*) are a principle source of legislation” (Saleh 1988:325). The description of Islam as the religion of the state was not new. The stipulation that Islamic law was a principal source of legislation gave religion a new public and divisive

⁴⁷ Not only did *infitah* constitute the declared economic policy of privatization and the open-market, but its laissez faire undertone also extended into the realm of the government, administration, migration, foreign policy etc. (Ayubi 1991: 17).

⁴⁸ Women were often not hired on the grounds that the provision of maternity and child care, stipulated by the progressive laws of the 1950s and 1960s, made their labor expensive. See Hatem (1992, 1994) for an in-depth account of the transformation of the Egyptian state from Nasser to Sadat and the different effects on women.

⁴⁹ While a number of women might have gained autonomy as a result of the migration of male household-heads, some studies point to the demoralizing social and emotional effects of migration on working-class women (Graham-Brown 1981; Hatem 1992).

role. It also added the *Sharia* as a reference point for women's role in society. The previous Article No. 11, which stated that the state will facilitate women's reconciliation of their work in the society and their obligations within the family, was amended to read "the state supports the reconciliation of women's obligations towards the family and her work in society. It also supports equating women with men in the political, social, cultural and economic arenas provided that this did not violate the judgements of Islamic *Sharia*" (Muhammed 1979: 75)

This represented a marked change in the way religion was defined by the Nasserite state and its relation to women and later the Personal Status Law. The national charter, the blueprint of the planned socialist society passed in 1962, viewed religion as a liberating force in the development of society. (*Wizarat Al-Tarbiya Wa Al-Ta'lim* 1968:161-62) It defined "proper religious beliefs as opposed to fanaticism and dogma...It rejected any attempt to view world religions as anything but humanist revolutions whose goal was the honor, progress and happiness of the human being"(*Wizarat Al-Tarbiya Wa Al-Ta'lim* 1968:163). Article No. 11 of the 1971 Constitution offered a distinct departure from these views. It employed Islamic *Sharia* in a restrictive way. Women's equality with men in the major public arenas was now limited by a more conservative reading of Islamic law that identified difference with public inequality. In 1980 the state introduced another amendment of article No.2 of the Constitution. Instead of *Sharia* being *a* principal source of legislation, it was now described as *the* principal source of legislation.⁵⁰

⁵⁰ Although the above amendments did not contribute to the change of any existing civil/public laws or the passage of new ones that challenged the previous exercise of citizenship rights, it was identified with the introduction of a new set of political actors, issues and discourses into the political process. It contributed to the politicization of religious institutions and groups.

As the public examined the “appropriate” place for women in society, two conflicting trends competed for women’s attentions. Secularists approved women’s participation on the workplace, and in education, in opposition to Muslim extremists, who articulated a restricted view of permissible behavior of women. At issue was, and is, women’s place in the family, in wage labor and in the public domain in general.

The alliance between the extremists and the government had serious implications for secular democrats and for women. Gender issues became especially contentious because along with Islamist activism came a renewed social conservatism⁵¹. One immediate consequence was the redrafting of the constitution and a deterioration in women’s statutory equality. The 1971 constitution redefined the meaning of citizenship by stipulating that gender equality apply only when it did not contradict the rules of *Sharia* law. This was a major setback for women and opened the door for a frontal assault on women’s right to work and participate in politics and public life as in conflict with the literal readings of Islamic texts. (Hatem 1994)

Criminal, financial and commercial laws were covered by civil codes, but family law continued to be governed by the *Sharia*, and it had been a half century since the Personal Status Law had been updated. Egyptian feminists and women’s rights advocates since the early 1900s favored changes in family law and repeatedly identified polygyny, divorce

⁵¹ Bureaucratic inefficiency, debt, controversial foreign policies, and an absence of governmental credibility helped spawn a revival of traditional cultural “authenticity.” For women, who had been the beneficiaries of improved education and job opportunities under Nasser, conflict surfaced as social conservatives rejected the Nasserist terms of women’s citizenship and undertook to alter them.

and child custody laws as flagrantly adverse to women. They wanted to change women's legal position as well as tackle the cultural biases that hobbled them.

Nonetheless, Personal Status Law did not escape the political manipulations of the state and its Islamist opponents. The state's initial support of Islamist groups allowed the latter to begin the successful mobilization of a large segment of middle-class women. The widespread embrace of Islamic mode of dress and Islamic ideal of domesticity by middle-class women in the 1970s led the state to use the reform of the Personal Status Law to mobilize its national and international sources of support.

At a later stage, with the support of the president's wife, Jehane Sadat, reforms to the Personal Status Law were proposed. These reforms spearheaded a two-pronged strategy of undermining the strength and legitimacy of Islamists and demarcating the state's social agenda from that of the Islamists as a form of internal and international mobilization against them. Internally, the state anticipated that the reforms would encourage the growth of a secular coalition of men and women; internationally, it hoped to use the law as a form of public relations to improve its image as a step towards lining increased political and economic support, especially from the United States (Hatem 1992: 242).

The Personal Status Law of 1979, granted women legal rights in marriage, polygamy, divorce and child custody; it was implemented by presidential decree along with another

law that introduced changes to women's representation in parliament.⁵² It is argued that Jehane Sadat was instrumental in passing the 1979 Family Status Law, which reaffirmed a woman's right to divorce, gave her the right to travel without needing her husband's permission and raised the legal age for marriage from sixteen to eighteen, among other things. Furthermore, these reforms incorporated new grounds for divorce by a woman if her husband took another wife without her consent. A wife would be informed if her husband divorces her and obtain a notarized divorce certificate. She would retain child custody until the ages of 10 for a boy and 12 for a girl, and be awarded the family apartment as her residence until she remarried. These reforms also addressed women's right to work, so long as it did not interfere with their "family duties," and ended the practice of *bayt al-ta'a* (house of obedience), wherein the husband was permitted to lock up his wife at home until she was more "obedient."

In summary, toward the end of his life, prodded by his wife and women activists, Sadat aggressively promoted women's rights. He instituted mandatory quotas for women in the electoral system and amended the Personal Status Law, two highly progressive actions. (Sullivan 1986: 56) Sadat took on an initiative that was certain to provoke Islamic extremists, whose most ardent campaign was to trim women's rights. The main amendments introduced included the right of the wife to keep the family home after divorce, the right of the first wife to be informed in case of the husband's marriage to another, as well as her right to demand a divorce on that basis. When Sadat authorized

⁵² The presidential decree, which is also informally referred to as the Jehane Law, created conflicts among women of different political persuasions and put them into a difficult position vis-a-vis this progressive law. Obviously, the common nickname 'Jehane's Law' delegitimized the reformed Personal Status Law by indicating the authoritarian and personalized manner by which it was passed.

passage in the legislature of a modified Personal Status Law granting women more control over marriage, divorce and child custody, he was the first Egyptian head of state to address the highly controversial arena of family life and to challenge the Islamist movement, which opposed any amendment to the existing laws. But the legislation he authored did not endure; on procedural grounds Islamic extremists succeeded in overturning the laws after his death.

Response to 1979 Personal Status Law by Feminist Activists

Law Number 44/1979, which amended the 1920 and 1929 laws, was cause for much controversy and dissent — especially, but not solely by Islamists — with the main charge being the claim that it went against the *Sharia*. The Islamist opponents of the 1979 Personal Status Law claimed that it contradicted *Sharia* by restricting the male unilateral right to divorce and take more than one wife (Zulficar 1995). The secularists condemned it as an antidemocratic tactic by an unpopular state. After the assassination of President Sadat, Islamist groups contested the legality of the law.

The new prominent role played by religion contributed to the resurgence of conservative patriarchal attitudes and forces as bases for solidarity among men regarding the social roles that women should play in society. Some of these patriarchal attitudes and rules have been accepted by Islamist middle-class women. The division of middle-class women along ideological lines made women's citizenship rights an easy target in the polemical exchanges between the state and Islamists (Hatem 1994: 661-76).

Consequently, revision of the Personal Status Law sparked controversy and passionate debate between women's organizations, feminist activists and conservative Islamists. In sermons, newspaper articles, Friday prayers, books, and on radio and television, Muslim groups pronounced their views on the "appropriate" place of women in Egyptian society. In the popular media and new organizations created to support women's rights, activist women resisted Islamic conservatism.

The re-emergence of women's activism in the early 1980s has mainly been linked to the continuing battle, over the Personal Status Law and the taking up of formerly taboo issues such as contraception and clitoridectomy (Ahmed 1992: 214). However, in 1985, during the national discussion of the Personal Status Law, differences within the movement became more emphasized. While Nawal El-Saadawi defended the law and campaigned to maintain it, the *Ittihad Al-Nissa'i Al-Taquadummi* (Progressive Women's Union, affiliated with the leftist Tjammu party) argued that it was passed unconstitutionally by Sadat and should therefore be annulled. In this debate nationalist leftist women, who opposed Sadat's policies of *infitah* and rapprochement with Israel, could be found arguing on the same lines as the Islamists and the Al-Azhar who were enraged by the reformed Personal Status Law. This debate very clearly showed the 'instrumentality' of women's issues and their submergence into broader political questions. What was at stake was not the actual substance of the issue, but a joint opposition against Sadat's general policies.

This episode is also reflective of the heterogeneity and frictions among women representing different political convictions and ideologies and having conflicting interpretations of the actual content of *qadiyyat al-mar'a* (women's issues) and how to go about promoting women's rights. However, it does not only show that women activists were just as ideologically and politically divided as men were, but also demonstrates the existing gaps between the various strands of the women's movement. The very act of forming an emergency coalition, when the constitutionality of the Personal Status Law was challenged in 1985, represents a break from prevalent nationalist- and liberal-modernist discourses within Egypt. These discourses had only focused on women's rights in the public sphere as part of "the process creating new modern societies" (Hatem 1993: 42). However, prevailing perceptions of women's rights were very closely tied to the modernist discourses of earlier male reformers, such as Qasim Amin, and the more recent development discourses. According to Mervat Hatem, these discourses accept "women's public space, where they were expected to pursue public activities like education, work and some form of political participation, especially suffrage" (Hatem 1993:40). Women's rights within the "private", family sphere are not only ignored, but also considered as standing outside the legitimate struggle for *qadiyyat al-mar'a* (women's issues). During the post-*infitah* period these previously unchallenged premises on women's rights started to be challenged from various directions, even if they still constituted the most widespread interpretation of women's rights.

Eventually, the 1979 Personal Status Law was abrogated on procedural grounds in 1985. In June of that year however, a similar law (Law No. 100) amending the 1923 and 1929

laws was enacted and continued to be enforced until 2000. It is important to note that all amendments to the Personal Status Law were piecemeal, and mostly passed outside Parliament. This underlines the extent to which debates on aspects of a law that regulates interactions between men and women, and has direct influence on the family, are volatile and sensitive.

WOMEN'S DEMANDS FOR LEGISLATIVE REFORM IN EGYPT DURING THE MUBARAK ERA (1981-1989)

Responding to pressure from the increasingly vocal Islamic movement and in the midst of a controversy in the country as to the Islamicity of Egyptian legislation. The government of Egypt took the step in 1980 of passing an amendment to Article 2 of the Egyptian Constitution of 1971. The Amendment had changed the wording of the Article from the seemingly benign “Islamic *Sharia* is *a* principal source of Egyptian legislation” to the more overreaching “Islamic *Sharia* is *the* principal source of Egyptian legislation”. The implication of such an amendment for an otherwise predominantly secular legal system took years to unfold.⁵³

⁵³For years, the Supreme Constitutional Court of Egypt (SCC) avoided confronting this matter head on despite the fact that its docket filled up with Article 2 cases almost immediately after the Amendment had come into effect. The Court's evasion tactic consisted of either striking down legislation coming to its review under this Article on procedural grounds thereby avoiding looking into the substantive ramifications of the Article. Or of declaring the non-retroactivity of the Amendment so that, the Court declared, all laws that had come to pass before the amendment came into effect were immune from challenges under this Article. Whereas this latter tactic had allowed the Court to uphold challenged legislation twelve consecutive times buying it precious time, the moment when the SCC had to decide on the exact reach of Article 2 was bound to arrive. Since that moment in 1985 until today, the SCC produced a body of cases that are historic both for what they say about Egypt's judicial elite's attitude towards the general project of Islamicization, but also for the ingenuity of the test developed by the Court in adjudicating cases under this Article. (Abu Odeh 2000)

Furthermore, in 1985, in deference to religious activism, the Supreme Constitutional Court struck down the highly controversial and much debated 1979 Personal Status Law (Law 44 of 1979) on procedural grounds. The rationale being that the law was issued by a presidential decree and was not discussed by the People's Assembly (Zulficar, 1995). Arguing that personal status was not a matter of national urgency, the court concluded that Sadat acted improperly by invoking emergency presidential powers.

The increased confrontation with the Islamists over the implementation of the *Sharia* (Islamic law) pressured the Mubarak regime to legislate and implement more conservative laws and policies towards women and to diminish its support for women's political representation. In response, the Mubarak government introduced a new law to the Assembly that was passed in 1985. The new law made concessions to the Islamist critics by retracting the restrictions that had been imposed on polygamy by the 1979 Personal Status Law.⁵⁴

In summary, the early years of the Mubarak regime were characterized by a search for stabilization and consolidation. In 1985 the revised Personal Status Law abandoned many of the rights that women had attained in the earlier version, which had been at the center of the debate concerning the state's legitimacy (Bibars 1987). A strong women's lobby used the 1985 Nairobi Conference — marking the end of the 'Decade for Women' — to protest and pressure the government to reformulate the law. Two months after its

⁵⁴ While Islamist forces continue to constitute a powerful constituency within the contemporary Egyptian state, there has been increasing demand on the Egyptian government to adhere to UN conventions concerning women's rights.

cancellation (just prior to the Nairobi Conference) a new law was passed which restored some of the benefits that the 1979 version had provided.

All in all, I think, Mubarak has learned the difficult way that women are the real force which can prevent the further growth of Islamist activities. Although this hasn't really been translated into some active policy. He hasn't been able to create a new atmosphere. It's being created again and again by the Islamists. What is most dangerous is that all places of authority are being infiltrated by Islamist authorities. Mubarak is terrified by the reactionary forces. He's ambiguous towards women. To his credit is the fact that groups of women are allowed to organize themselves. (Zayyad 1996: 71)

Despite Mubarak's official pro-democracy policy, repressive measures have not only been directed towards Islamic militant groups and communists, but also towards women activists. A number of laws, most notably the Law of Associations (32), first established under Nasser, continue to regulate the establishment of voluntary groups, associations and organizations under the supervision of the Ministry of Social Affairs. These laws oblige women activists to operate either as informal groups or as officially registered organizations, which are subjected to the control of the Ministry of Social Affairs.⁵⁵

Renewed Feminists Activism and Coalitions

⁵⁵ Economic dependence on aid from the United States and international donor organizations (IMF and the World Bank) compels the current regime to present itself as abiding by the values and ethos of democracy, human rights and womens rights — as promoted by Egypt's financial and political 'benefactors'.

In 1985 when the revised Muslim Personal Status Law of 1979 (the first major revision since 1929) was revoked, feminists formed a broad coalition constituting the *Lajnat Al-Difa' 'an Huquq Al-Mar'a Wal-Usra* (the Committee for the Defense of the Rights of the Woman and the Family), which successfully fought for the reinstatement of the law (albeit in a slightly modified form). Although the rescinding of the law was part of a larger political battle that transcended issues of personal status, the regulation of family life would prove the most contentious and least satisfactorily settled feminist issue during the century.

In the 1985 Personal Status Law, as with past Personal Status Laws, a blatant inequality exists between men and women when it comes to divorce. Husbands need give no explanation for their divorce, whereas women have to have recourse to a variety of conditions, some of which are difficult to prove in court. This situation is often justified by claiming that women are more emotional than men and therefore they may well seek divorce (and social ruin by implication) on 'irrational' grounds. The feminist lawyer Bahiy Al-Din argues that the way the conditions themselves are phrased is 'very dangerous'. As an example she cites condition 6, which states that a wife has to have suffered "abuse or harm which renders living together intolerable from a social or cultural point of view". The questions Bahiy Al-Din raises are most relevant to women from the lower social classes. How can these women, she asks, who come from a social milieu in which it is acceptable for men to beat their wives, claim that this practice is "socially intolerable"? Moreover, Bahiy Al-Din questions the validity of these conditions when the harm inflicted by a husband on his wife is usually done in private. Yet,

according to the Personal Status Law, violence must be witnessed by others to be proved in a court of law.

Bahiy Al-Din also maintains that despite society's glorification of motherhood, mothers are treated as 'foreigners' to their children after divorce. According to the law they are paid to nurture the children as divorced women. This critique, however, is not shared by many other feminists, some of whom maintain that the 'alimony' received by women after divorce, ostensibly to care for the children remains important and is a right for every woman. Bahiy Al-Din provides a comprehensive critique of almost every aspect of the Personal Status Law — far beyond the scope of this chapter. Her views on the various forms of "alimony" are somewhat distinctive.

Feminists agreed that though the 1985 Personal Status Law granted women more rights than the 1929 Law, much still needed to be done in terms of amendments to correct deficiencies and overcome practical difficulties in its application. Meanwhile, the secular feminist Communication Group was calling for two urgent amendments to the law.

The Communication Group for the Enhancement of the Status of Women was formed by a group of seven professional Egyptian women called the "Communication Group for the Enhancement of the Status of Women in Egypt", but eventually became known interchangeably as the "Group of Seven" or "The Communication Group". This group included prominent professional women and NGO leaders, such as Aziza Hussein, the internationally recognized NGO leader in Egypt and the Arab World; Mervat Tallawi, the

then Egyptian Ambassador to Austria and former Minister of Social Affairs; and Mona Zulficar, a prominent constitutional lawyer, activist and drafts woman, as well as other journalists, government officials, and NGO leaders, including Magda Al-Mufti, Aziza Hussein, Inji Rushdi, Saniya Salih, and Awatif Wali. To help women take advantage of the existing Personal Status Law laws in their favor, they published a pamphlet called *Legal Rights of the Egyptian Woman: Theory and Practice* in 1988.

Their first demand was that the legal age for marriage be extended to 18 for females and 20 for males whilst increasing the penalty for violating this provision.⁵⁶ The second amendment they called for is that the age of maternal custody of children be increased to 12 for boys and 15 for girls, “as this is more compatible with the children’s needs for their mother’s care and is in line with the court precedents in this respect” (The Communication Group 1992: 26).

In the same pamphlet, we see the launching of the campaign to redraft the marriage contract. The idea of the “New Marriage Contract”, as it is known in Egypt, was first introduced in 1985, during the preparatory stages of consciousness raising and a legal illiteracy campaign, which resulted in a booklet called “The Legal Rights of Egyptian Women in Theory and Practice”. The booklet was addressed to the men and women of Egypt, with “the aim of helping every Egyptian woman striving to achieve a better life

56 “This would help solve the population problem and would also assist in decreasing cases of divorce resulting from early marriage, particularly according to a study carried out by the Central Agency for Mobilization and Statistics published in 1983. 25% approximately, of the total married females have been married at an age below 15.” (The Communication Group 1992: 26)

for herself and her family, and acquire a better understanding of her rights and obligations under Egyptian law.” (Zulficar 1993: 16)

The campaign attempted to use law and legal awareness as an instrument of social change. The aim was to bridge two types of gaps between legislation and social realities. The first gap was between secular, modern and progressive laws and culture and traditions which impeded their implementation. The second gap existed in cases where women’s needs for development and empowerment surpassed and contradicted the outdated Personal Status Law, which “resisted change and exploited religion to make discrimination against women legitimate.” (Zulficar 1993: 8) Awareness of legal rights and challenging the restrictive traditions and cultural heritage was the object of this exercise. (Zulficar 1993)

The primary strategy was to use the draft contract as a tool for consciousness raising that the marriage contract is a civil contract and that it is admissible under the principles of the *Sharia* and the law to include conditions in the contract that reflected the mutual agreement of the parties. At a different level it was an attempt to bridge the gap between the rights of women under the *Sharia* principle and the personal status laws. The latter either did not recognize certain rights, such as *khulu*, i.e. the woman’s right to repudiation without any fault on the part of the husband, in exchange for forfeiture of her deferred dower and right to alimony; the woman’s right to reserve in her marriage contract her rights to divorce herself without having to resort to the court; or the woman’s right to restrict her husband’s right to take a second wife. All these rights are recognized as

legitimate under *Sharia* principles. Nonetheless, until recently, they remained unknown, hidden, not recognized by the current personal status laws, not applied by the courts and culturally perceived as taboo.

The campaign for the New Marriage Contract adopted a strategy of engagement in the religious discourse, based on the women's reading of their rights under the principles of *Sharia*. According to Zulficar, "we reclaimed for the first time our right to redefine our cultural heritage, as Muslim women under the principles of the *Sharia*." (1995:13)

Zulficar indicates that the women's movement could no longer afford to continue using solely a strategy based on constitutional and human rights.

We had to prove that the religious discourse could also be used by women to defend their cause. The religious extremist groups consistently place the women's issues at the forefront of their published agenda to implement *Sharia* principles or "codify" *Sharia* and assert their cultural identity. Thus, any secular feminist opposition is immediately accused of being anti-Islamic, an agent of the then "non-religious" Eastern bloc or "the corrupt" Western bloc. (1995:13)

Therefore, it was essential for the women's movement to diversify its strategies and adopt a credible strategy, which could reach out and win the support of simple, ordinary religious men and women. The New Marriage Contract, an Islamic concept deeply rooted in the indigenous culture, represented a new vision of cultural and social realities of women in their every day life which reconciled religious discourse with secular feminist

discourse. The women's movement, consequently, demonstrated that its engagement in the religious discourse was not inconsistent with the mainstream of the human rights movement, which included the secular feminist movement.

By the late 1980s, women's public rights, such as access to education, political participation and work, continued to gain legitimacy at the expense of women's rights in the so-called private sphere.⁵⁷ Feminists also began organizing themselves around human rights and legal literacy. In 1987 a group of women and men founded *Rabitat Al-Mar'a Al-Arabiya* (the Alliance for Arab Women), headed by women's development specialist Huda Badran. The organization focuses on women's political and legal rights.

In one secular activist's (who preferred to remain anonymous) view, the shift to a more serious consideration of "women's issues" as worthwhile and significant is related to the 1985 UN conference on women held in Nairobi:

I think Nairobi was really useful whether women realize it or not. For me personally this was a turning point: getting involved in the preparations, exerting lots of positive efforts, and becoming familiar with reading about women. All this wasn't really a concrete attitude at the time, but then I began to be convinced, and I felt much stronger about women's issues by the time of the Nairobi conference... What was more significant [than the Nairobi conference] were all those activities, which took place on the mid-eighties. From 1983 to 1985 there were lots of organizations. I

wasn't a member of any of them, but I was entangled in many of their activities. I got involved in the campaign to maintain the 1979 Personal Status Law, called Jehane's Law. I was part of this group that was created, the 'family and Women's Committee'. There was a big movement. We were meeting in different homes and places and drafted some sort of amendments to the law and put it to parliament. Lots of things happened at the same time: the preparation for Nairobi, working for the report and working on my research for the regional meeting on Arab-African women. All that was just something that polishes you very quickly. Also, Nawal El-Saadawi asked me to come and present something about young women's health. It was a lot of digging, a lot of reading about the issue. Health was my entry point into women's rights activism," said an activist whom I had interviewed.

The same activist gives evidence to emerging convergence between professional work and women's activism as well as the growing interconnection with regional and international for a. She also makes reference to the influence of Nawal El-Saadawi, whose lectures and books addressed women's emancipation as an important issue, without perceiving it as contradicting either class struggle or national liberation.

⁵⁷ Attempts to shift focus to work with grassroots women characterized Egypt's wider political culture during the late 1980s. This tendency, which coincided with a growing NGO sector, enticed groups to work on illiteracy, health and education.

IN SUMMARY

Discussion about the revision of Egypt's Personal Status Law dates back to the nineteenth century when Islamic reformer Shaykh Mohammed Abduh advocated the restriction of polygyny in an effort to improve women's position in the family. For a century progressive thinkers and activists have echoed Abduh's opinion, and yet only insignificant action has been taken to alter the statutes. Even though Huda Shaarawi, Doria Shafik, Aziza Hussein and others campaigned tirelessly to empower women in the family, their efforts were largely unsuccessful because family relations remained Egypt's most sensitive and highly contentious issue.

As Badran has already pointed out, "historically, there has been room in Egypt for the competing discourses of the state, Islamists and feminists on the 'woman question'" (Badran 1994: 205). In the 1990s the state and pro-feminists have increasingly had to take into account Islamist social and political activism, discourses and demands.

Even Nasser, whose modernizing agenda required the entrance of women into classrooms and workplaces, deliberately kept the state out of people's private lives so as not to alienate religious authorities and undermine his socialist economic planning. When Sadat attacked the Personal Status Law, he shattered tradition by situating the state and judicial system squarely within the domain of the household. Whether Sadat believed it or not, he asserted that the health of the nation depended on the stability of the family and improvement of women's lives. Under Mubarak, women have entered the educational system in significant numbers and have become part of the paid work force, but they

remain subordinate in the family hierarchy. Citizenship combines new public roles for women with culturally traditional concepts of family life.

The state is not only far from being homogeneous and static, but its relation to women's movements and organizations differs from context to context. In Egypt the changing role and policies of the state vis-a-vis women's issues were paralleled by the continuous pressure women exerted on the Egyptian state to respond to their demands and needs (Hatem 1992: 248). Simultaneously, the Egyptian state poses a threat as well as offers resources to the women's organizations.⁵⁸ Throughout its history the Egyptian state was actively engaged in constructing gender through its policies and legal provisions. The debate about the Personal Status Laws is a case in point, as it shows the shifting and ambiguous role of the state concerning gender relations. The state can be both a means to challenge existing gender relations (by reforming the conservative Personal Status Laws and granting women more rights with regard to marriage, divorce and child custody) or it can reinforce oppressive gender relations (by abolishing the reformed laws).

This chapter has served to provide an overview of Personal Status Law reform and debates over the span of a century — from the 1880s to the 1980s. The chapter has presented the progression of amendments made to the Personal Status Law in each political era as well as the responses of Egyptian feminists to the respective changes. This historical overview demonstrates that the Egyptian women's movements, until 2000, have been organizing around the push to reform Personal Status Law for well over a

century but to little avail. This part of history is of extreme importance as it provides the rationale behind reverting to alternative and shifting strategies in the women's movements' demand for legal reform. This chapter lays the historical context for a discussion of the contemporary women's movement in Egypt and the various strategies being used to push for reform, which will be the main focus of the next chapter.

⁵⁸ Connell's conceptualization of each state embodying as well as creating 'gender regimes' provides a useful analytical tool to understand the changing and ambiguous relationship between the Egyptian women's movement and the state (Connell 1990).

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER SIX:
Emerging Perspectives of Women Activists Toward
Personal Status Law Reform (1990s-2002)**

Chapter 6 — Emerging Perspectives of Women Activists Toward Personal Status Law Reform (1990s-2002)

INTRODUCTION

Having already sketched the history of the Egyptian women's movement in Chapter 5, this chapter is dedicated to contextualizing the contemporary women's movement and examining the different perspectives and strategies of Egyptian women mobilizing for legal change. Since an overarching Islamization of political discourse is the backdrop to Egyptian feminisms, this chapter will examine secular, Islamist and Muslim feminists' varying approaches in their demand for Personal Status Law reform in the 1990s.

Islamist, and Muslim feminist voices are presented by analyzing their written material, as well as featuring their own words through personal and published interviews.

Egyptian feminists have historically identified a list of legal institutions as pre-modern bastions of male power and as such were the focus of their political activism. These institutions included: marriage of minors, unilateral right to divorce for men, polygamy, the institution of obedience, and the understanding of gendered roles as complementary as opposed to equal (meaning same). Throughout the 20th Century and at the dawn of the twenty-first, the various emerging feminisms in Egypt have chosen to tackle the above issues using different approaches, strategies and ideologies. In this chapter, I intend to map out the strategies and views of the two emerging strands of feminism in Egypt today, namely Islamist and Muslim feminists, whose strategy relies on the reinterpretation of Islamic scripture and jurisprudence. This revisiting of Islamic law from a feminist stance

has developed a new paradigm for the reinterpretation of women's rights in Muslim states and paved the path for progressive reform of Personal Status Laws.

The pioneering secular feminisms in Egypt and other Arab countries have often had space for religion. The founding Egyptian feminist discourse was anchored simultaneously in the discourse of Islamic reform and that of secular nationalism. Secular feminism (often called just plain feminism) made Islamic arguments in demanding women's rights to education, work, political rights along with secular nationalist, humanitarian (later human) rights, and democratic arguments. When feminists plead for changes in the Muslim Personal Status Law they obviously advanced Islamic arguments, since family law is based on the *Sharia*,

Today, some of the specific goals of Muslim/Islamist feminists are the same as those articulated earlier by secular feminists, such as changes in Personal Status Laws. Other earlier feminist demands, such as suffrage, have long since been realized in many places. Often, when secular and Islamist feminists try to work together for common goals, they are inhibited or pulled asunder by competing political forces as happened in Yemen following the successful drive by a coalition of a wide spectrum of women to prevent a regressive Personal Status Law from being enacted in 1997.

From both my research and interviews, it has become evident that the new alliance between secular and Islamist feminists and the subsequent emergence of Muslim

feminists have adopted an indigenous strategy that has been — to date — most effective in the mobilization of the Egyptian public toward reform of the Personal Status Law.

Muslim feminism transcends and destroys old binaries that have been constructed. These included polarities between “religious” and “secular” and between “East” and “West”, which have been imposed by the conservatives and detractors of the women’s movement. In effect, Muslim feminists have come to bridge a gap between two opposite poles of Egyptian feminism. Using an Islamic framework, Muslim feminists are able to articulate the historic demands for legislative reform using indigenous rationale. I stress this because not infrequently there are those who see Muslim feminism, or the recognition of a Muslim feminist discourse, as setting up or reconfirming polarities. On the contrary, that Muslim feminist discourse does precisely the opposite; it closes gaps and demonstrates common concerns and goals, starting with the basic affirmation of gender equality and social justice. Suggestions or allegations of a supposed “clash” between “secular feminism” and “religious feminism” may either be the product of lack of historical knowledge or, as in many cases, a politically motivated attempt to hinder broader solidarities among women.

ISLAMIST FEMINISTS

What is Islamist feminism? Let me offer a concise definition: it is a feminist discourse and practice articulated within an Islamic paradigm. Islamist feminism, which derives its understanding and mandate from the Quran, seeks rights and justice for women, and for men, in the totality of their existence. Islamist feminism is both highly contested and firmly embraced. There has been much misunderstanding, misrepresentation, and

mischievous concerning Islamist feminism. This new feminism has given rise simultaneously to hopes and to fears. We shall look at who is producing it, where, why and to what end.

The term Islamist feminism began to be visible in the 1990s in various global locations. It was from the writings of Muslims that I discovered the term. Iranian scholars Afsaneh Najmabadeh and Ziba Mir-Hosseini explained the rise and use of the term Islamist feminism in Iran by women writing in the Teheran women's journal *Zanan* that Shahla Sherkat founded in 1992. Saudi Arabian scholar Mai Yamani used the term in her 1996 book *Feminism and Islam*. Turkish scholars Yesim Arat and Feride Acar in their articles, and Nilufer Gole in her book *The Forbidden Modern* (published in Turkish in 1991 and in English in 1996) used the term Islamist feminism in their writings in the 1990s to describe a new feminist paradigm they detected emerging in Turkey. South African activist Shamima Shaikh employed the term Islamist feminism in her speeches and articles in the 1990s as did her sister and brother co-activists. Already by the mid-1990s, there was growing evidence of Islamist feminism as a term created and circulated by Muslims in far-flung corners of the global *umma*.

Islamist feminism is a global phenomenon. It is not a product of East or West. Indeed, it transcends East and West. As already hinted, Islamist feminism is being produced at diverse sites around the world by women inside their own countries, whether they be from countries with Muslim majorities or from old established minority communities. Islamist feminism is also growing in Muslim Diaspora and convert communities in the

West. Islamist feminism is circulating with increasing frequency in cyberspace — to name just one site: maryams.com

CONSTITUTING A DISCOURSE: How is Islamist feminist discourse being constituted? This issue includes what some Muslims are calling Islamist feminist theology (for example a young Lebanese researcher, Hosni Abboud, who is examining the treatment of Mary in the Quran — the only woman mentioned by name in the holy book). The basic argument of Islamist feminism is that the Quran affirms the principle of equality of all human beings but that the practice of equality of women and men (and other categories of people) has been impeded or subverted by patriarchal ideas (ideology) and practices. Islamic jurisprudence, *fiqh*, consolidated in its classical form in the 9th century, was itself heavily saturated with the patriarchal thinking and behaviors of the day. It is this patriarchally-inflected jurisprudence that has informed the various contemporary formulations of the *Sharia*. The *hadith*, the reported, but not always authentic, sayings and deeds of the Prophet Mohamed, have also been often used to shore up patriarchal ideas and practices. Sometimes the *hadiths*, as just suggested, are of questionable provenance or reliability, and sometimes they are used out of context. Thus a priority of Islamist feminism is to go straight to Islam's fundamental and central holy text, the Quran, in an effort to recuperate its egalitarian message. Some women focus exclusively on the Quran (Amina Wadud, Rifaat Hassan, Saudi Arabian Fatima Naseef); others apply their rereadings of the Quran to their examination of the various formulations of the *Sharia* (Lebanese Aziza Al-Hibri, Pakistani Shaheen Sardar Ali);

while others focus on re-examining the *hadith* (Moroccan Fatima Mernissi, Turkish Hidayet Tuksal).

The basic methodologies of this Islamist feminism are the classic Islamic methodologies of *ijtihad* (independent investigation of religious sources), and *tafsir* (interpretation of the Quran). Used along with these methodologies are the methods and tools of linguistics, history, literary criticism, sociology, anthropology etc.

In approaching the Quran, women bring to their readings their own experience and questions as women. They point out that classical, and also much of post-classical, interpretation was based on men's experiences, male-centered questions, and the overall influence of the patriarchal societies in which they lived.

Islamist feminism serves people in their individual lives and it can also be a force in improving state and society. As far as Muslim women in Western diaspora communities and in Muslim minority communities are concerned, second generation Muslim women are often caught between the practices and norms of the original home cultures of parents who migrated from Middle Eastern or South Asian countries, and the ways of life in their new countries. Islamist feminism helps these women untangle patriarchy and religion; it gives them Islamic ways of understanding gender equality, societal opportunity, and their own potential.

On the other hand, Islamist feminist discourse is equally relevant in predominantly Muslim countries. It constitutes a different statement of the views of the people and their understanding of and attachment to their religion and culture, by attempting a strong and Islamic articulation of gender equality.

In re-examining the Quran and *hadith*, Islamist feminists are making cogent arguments that Islam does not condone wanton violence against women, promoting the notion that violence against women is indeed anti-Islamic. This alone will not put an end to violence but it is one among many weapons against it. The Malaysian group “Sisters in Islam” is one among many that have decried violence against women perpetrated in the name of Islam in a pamphlet they distributed widely. South African Saadiya Shaikh has also completed a study on the subject and is currently looking at notions of sexuality in Islamic religious texts. (Sabbagh 1996)

It seems important to focus on the content of Islamist feminism, on its goals, and not to get bogged down with distracting issues about who has the right to think/analyze and to speak. Let us not be too defensive or proprietary about Islamic gender equality, about Islamist feminism.

Islamist feminism is an Islamicized women’s discourse expressly articulated within an Islamic paradigm and behaviors and activisms inspired by it are enacted in Islam’s name. Some of the Muslims talking about Islamist feminism were among the producers of the new discourse, or activists inspired by it. Other Muslims, as scholars, writers, journalists

and public intellectuals, commented on Islamist feminism, entered debates, and wrote about while standing outside the emergent ranks of Islamist feminists. Moroccan sociologist and writer Fatima Mernissi is a well-known example, and, moreover, one of the earliest to articulate feminism from an Islamic paradigm without taking on an Islamist feminist identity. (See following section on Muslim Feminists for greater detail on Mernissi's work.)

Historical Roots

In the second half of the 20th century, the dominant voice of feminism in Egypt as well as in the Middle East was of a “Western” type, whereas the second strand, known today as Islamist feminism, remained marginal. It was seen only as an alternative and was not even recognized as a voice of feminism. However, with the spread of Islamic Revivalism since the 1970s, it is the feminism advocated by Al-Ghazali which seems to capture the hearts and minds of Islamist women. It apparently has greater resonance for the shaping of mainstream Egyptian culture, whereas the indisputably dominant voice of secularist, “Westernizing” Arab feminism has become the marginal and alternative voice.

At this point, it is important to highlight women's role in identity politics and cultural reassertion and the newly emerging feminist voice resonating within Islamist movements. In the absence of fully developed liberal and socialist movements, institutions and discourse, Islam becomes the absolute ideology. For some Muslims —depending on social class and a number of other factors such as age groups and level of education —

becomes a source of security and stable identity in changing environment. The radical Islamist provide collective support and a sense of belonging.

The influence of Islamic revivalism is increasing in many areas of the Third World. Many of these movements have particular roles for the women involved in them and depend on the vision of the ideal framework for gender relations. Groups with a political agenda often justify their aims and actions by selectively appropriating traditions and religious and historical texts.

In Egypt like the majority of the Middle East, the state is characterized by a patriarchal state system which has silenced left-wing and liberal forces while fostering religious institutions to gain legitimacy and perhaps appease the growing fundamentalist movements.

The politicization of women often occurs in the context of intensified religious, cultural and national identity. A major theoretical challenge for gender analysis is the place of women and gender in the causes and outcomes of fundamentalist movements. The outcomes are usually manifested through changes in legislation, practices, gender relations and the legal and social status of women.

Women from the lower classes tend to support Islamist movements as they provided them more space for mobility. Women within the movement can work, study act publicly and politically without being reproached for lack of modesty. Veiling is no longer just an

assertion of identity but a matter of convenience: it facilitates mobility in public and protects women from harassment.

In adopting Islamic dress women are carving out legitimate public space for themselves and subsequently public space is being redefined to accommodate women. The adoption of the dress does not declare women's place to be at home, but on the contrary legitimizes their presence outside it. The prevalence of the Islamic dress among women is anything but a retreat from female autonomy and subjectivity.¹

Islamist women are invading mosques, previously a male domain. Some men may resist the sharing of public space and power, but at the same time they are defenseless as the process is taking place within the legitimate dominant culture. The charge of being anti-Islamic by not supporting women in the Islamic trend is an accusation most men don't want to be confronted with. Women are not only making use of this political space, but are constantly equipping themselves with examples from Muslim women in Islamic history which are used to legitimize their position. Using this pretext, women's mobility has increased. They are able to move freely, attend lessons and gatherings with other sisters, without requiring the consent of their husbands, fathers or brothers.

Evidently, significant negotiations of power are taking place. Through veiling women's protests can be voiced and perhaps ameliorated in three dimensions of inequality: in

¹ In the area of class relations, the veil allies modest middle class women and differentiates them from lower-class women. Globally, in reaffirming the values they hold as important and in an attempt to make them real again, identifying themselves with Islam shows their connection to a vibrant and powerful culture, a culture they wish to hold on to, as opposed to the encroaching culture of the West.

gender relations, class and global position. In the realm of gender, for instance, these women are perceiving a different womanhood, they are hearing the ethical, just, egalitarian voice of Islam and are demanding its implementation in their family politics. By singling out elements from Islamic history, they are reclaiming their real rights as prescribed by 'true' Islam. Islamist women are indeed attempting to challenge the androcentric dominant culture that is sometimes hostile to women and the language of the politically dominant. Central issues, such as marriage, divorce and custody of children, are looked at from Islamicized women's perspective. Islamist women claim, for example, that any conditions can be stipulated by the woman who wishes to protect her rights in the marriage. This may include the freedom of choice in working or not, fear of men's easy divorce of their wives, or of no possibility of divorce when the woman asks for it. The practical solution as suggested by Mohammed Abduh is to give women full autonomy to dissolve the marriage contract herself. This solution was also proposed by Islamist feminist Zeinab Al-Ghazali, and goes back even further to the seventh century.

Islamist women are involved in important choices in a struggle to define both their own identity and women's place in a changing society. They are attempting to discover an appropriate identity which fits their tradition as it redefines their future. Negotiating their future is the task these women confront with their invasion of public space.

Michel Foucault articulated the view that modern forms of power are much more difficult to locate as they lack a center, or an eye. (Foucault 1972) Similarly, subordinate groups, such as the burgeoning Islamist women's groups, turn to the use of small unofficial

tactics only viable form of protest to bargain over modern forms of power. For example, many women are choosing to adopt the veil as a reaffirmation of their indigenous identity and are increasingly congregating in *halaqat*, study groups, through which they can break free from the chains of domesticity and participate in public life.

In the last decade there has been an increasing concern with women's rights in Islam. Not only have Muslim feminists highlighted the status of women in Muslim societies but Islamists, male and female, have also joined the debate, stressing the liberating potential that an Islamic framework has for women. Muslim women's reinterpretation of Islamic sources is becoming a matter of interest not only as an intellectual discussion within a feminist sphere but has entered contemporary Islamist debate as well.

An important question to pose is who has the authority to interpret Islamic sources? The question of authority related to the interpretation of the Islamic sources is central to the Islamist discourse on women. The ambiguity of holy texts rests on differences of interpretation. As every interpreter has his or her own distinctive biography, this will influence the reading of the texts. The interpreter's biography involves a person's specific character traits, upbringing and experiences as well as class, status and gender.

The traditional understanding is that the interpretation of Islamic theology has been reserved for the *ulumma*, the elite male scholars versed in Islamic jurisprudence. As theological deductions from the sacred texts have been a matter for elite males and thus

favorable for men at the expense of female interest, throughout history religion has been used as a tool for the oppression of women.

Power relations within the state have also had an impact on Islamist conceptualizations of women's rights. There is an increasing number of Islamist women activists who have managed to gain a voice within the mainstream Islamist discourse and to criticize and challenge their male counterparts for misinterpreting Islam. (Esposito 1999; Karam 1998; Moghissi 1999; Haddad 1998; Stowasser 1994; Zuhur 2000) A number of scholars have already explored the issue of Islamism and women's rights which I do not want to recapitulate here (Badran 1991, 1994; El- Guindy 1983; Karam 1993, 1994, 1998; Zuhur 1992). Instead, I would like briefly to outline some of the tendencies of Islamist women activists.

The literature reveals that the most celebrated women have remained ambiguous about what constitutes an adequate role for women within an envisioned Islamic state and society: for example, Zeinab Al-Ghazali, the most prominent Islamist woman and founder of the *Jama'at al-Sayyidat Al-Muslimat* (Muslim Women's Association, 1936), and Safinaz Qazim, a journalist and former leftist who committed herself to Islam in the 1970s. While Al-Ghazali and Qazim find no contradiction between women's public involvement (education and work) and private lives within the family (wives and mothers), they have remained antagonistic to feminism. (Badran 1994: 209)

A new generation of Islamist women have been more outspoken and confrontational about the way they view women's role in an Islamic state. They stress Islam's compatibility with UN-stipulated standards of women's rights and point to persisting traditions of pre-Islamic times as being responsible for the discrimination against women (Ahmed 1992). Zeinab Radwan, for example, a professor of Islamic philosophy at Cairo University and author of the book *Islam and Women's Issues*, told me that she would spread her convictions through newspaper articles, in public lectures, TV programs and in lectures at Cairo University. In her view, the movement of *Tahrir Al-Mar'a* initiated by Huda Shaarawi only addressed issues such as education and veiling, but failed to address women's rights and position in the family, which she sees as clearly defined by Islam.

Heba Ra'uf, one of the youngest and most prominent Islamist women's activists, is certainly one of the most outspoken in the call for the launching of an Islamist women's movement. Feeling closest to the more moderate Muslim Brotherhood (*Akhwan Muslimin*), rather than some of the more radical tendencies, she clearly expresses her objective to change society from within in order to realize her vision of an Islamic state. *Ijtihad*, the reinterpretation of the sources of religion and traditional values and the examination of Islamic history are the methods chosen by Ra'uf to evolve an Islamic theory of women's liberation.

In this section, I shall focus on the perspectives of the Islamist women activists. I first elaborate why I chose these specific women and then I present and analyze the works of the selected Islamist women activists starting with the eldest. The women chosen are

Zeinab Al-Ghazali, Safinaz Qazim and Heba Ra'uf. This chapter does not attempt to map out all the intricacies and details of Islamist women's lives and work methods comparatively. In fact, as in the previous chapters, it is the voices of these Islamist feminists that are chosen to highlight their views on certain issues, such as feminism or *Qadiyyat Al-Mar'a* ('the woman's issue'), Islamisms and the state. As such, the sketches continuities and changes in their ideas and actions, and highlights the characteristics and particularities of Islamist feminisms.

A notable difference between these women and their male counterparts (with the exception of Sayyid Qutb) is that the women surveyed here are activists in the real sense of the word. Whether it is Zeinab Al-Ghazali (born in 1917), Safinaz Qazim (born c.1939) or Heba Ra'uf (born c.1965), all three are politically active and have been so since their teens: joining demonstrations, giving talks, organizing protests and, above all, writing. These women are active in the field of women's issues — writing, advising, campaigning, ostensibly in the name of all Muslims, but also on specific issues related to women. Each of them has admitted to realizing that women are oppressed in today's world, and each of them, in her own way, combats this oppression in the name of a proper Islamic society and state. They are thus presented as Islamist feminists.

I chose these three because each has a following among many of the women Islamists I interviewed. In the case of Zeinab Al-Ghazali, her reputation as 'a soldier of God' is almost legendary not only among women, but also among men Islamists. These women each represents a different generation of Islamist women leaders.

Zeinab Al-Ghazali set up her own Muslim Women's Association (MWA) at the age of 18, in 1936. The MW A had to contend with continuous harassment and eventually banning by the Nasser regime. Al-Ghazali herself was imprisoned and tortured.

Representing the next generation of Islamist women's activism, Safinaz Qazim was highly impressed with Malcolm X when she met him during her years as a literature student in the United States. Since her return to Cairo, she has campaigned vigorously for an Islamic society. She was also imprisoned by Sadat during the latter's 'purge' of all oppositionists in September 1981. Refusing to join any one group, Qazim levels her criticism and proposals for alternatives principally through her pen. Heba Ra'uf, the youngest and of the contemporary generation, uses different platforms to air her ideas and declare her Islamist solidarity, including Cairo University (where she is a lecturer), and the Muslim Brotherhood-Labour Party Alliance. Ra'uf also edits the 'woman's page' in the Labour party newspaper *Al-Shaab* and is a regular contributor to the Islamonline web-zine.

Zeinab Al-Ghazali:

It is true that I am over seventy [years of age] but my call has not been defeated. My voice will continue to ring till the last day of my life. I am still able to practice the *Da 'wa* through giving lessons to some of the Muslim sisters and attending Islamic conferences, and I pray to Allah to grant me success and help me to accomplish my desires to elevate Islam and Muslims. (Al-Ghazali as quoted in Al-Hashimi 1990: 53)

Al-Ghazali's career continues to revolve around actively establishing the groundwork and basis for an Islamist movement in Egypt. Though starting her political life as a member in Huda Shaarawi's feminist group, Al-Ghazali was soon drawn to Islamic lectures at Al-Azhar. From there she moved decisively and quickly in the direction of a politicized Islamic consciousness.

She resigned from the Egyptian Feminist Union and founded her own group, the Muslim Woman's Association, in 1936. One of her major publications is her memoirs of her prison years under Nasser, which she wrote as an explicit documentation of the atrocities. She has written innumerable articles published in Islamic newspapers and magazines throughout the Muslim world. She has also lectured extensively in Egypt, Pakistan, the US and Saudi Arabia. Much (Al-Hashimi 1990; Badran 1991, 1994; El-Guindy 1983; Karam 1993, 1994, 1998; Zuhur 1992) has been written about her, since she maintains a formidable influence among men and women Islamists in many parts of the Muslim world.

Al-Ghazali's basic tenets regarding the role that Muslim women should occupy is a secular feminists' nightmare. She begins by arguing that there is no such thing as a separate 'women's issue' within Islam. In fact she maintains that:

If we study the secret behind the backwardness of Muslims, we will find that one of its first causes is the imagining of issues invented by the enemies of Islam in order to attract the Muslim people's attention away from the large issue of returning Islam to

its former prime and glory, to steal (Islam's] world from the circle of retardation or what they call 'developing', or Third World. (Al-Ghazali 1986: 44)

She maintains that Islam's perception of men and women is unified. It is as a nature that has divided into two, and neither is complete without the other. Having said that, however, Al-Ghazali then proceeds to outline in detail what is expected of women in any Islamic society. Of the Muslim girl, Al-Ghazali says,

It is the duty of the Muslim girl to diligently attend to perform her prayers at the right time. To make sure she respects and obeys her parents and treats them well because obedience to them is obedience to God almighty. Also to wear the proper and [religiously] ordained dress... In school or university to be the good example for her colleagues so she makes sure she achieves the highest of grades in her lessons and thus becomes an example in positive achievements and practical achievements.(Al-Ghazali 1985: 48)

However, Al-Ghazali's position was to shift with the passage of time. When asked, in the late 1980s, direct and specific questions about the roles that Muslim women should play in modern societies, Al-Ghazali began to talk of "choice". Thus, in comparison with her above-quoted discourse, a change takes place in which she acknowledges that women should themselves determine in what way they wish to participate in society. The following illustrates this shift in her discourse:

There is an attempt to curtail Muslim women's roles in life and this is a baseless attempt. In my opinion a Muslim woman can work on two levels: the first is that she brings up her children in the spirit of Islam, and in our circumstances she must explain to them that their land in Palestine and Afghanistan is unjustly taken and God's orders are delayed, and that their inescapable duty is to change these corrupt circumstances in the Islamic world. The second level is that she herself joins in this *jihad* (struggle), and in the absence of Islamic law I see it as a duty of every Muslim. It is up to the Muslim (woman) to balance it out and arrive at the most positive outcome to this situation. (Al-Ghazali 1988: 38)

Safinaz Qazim:

Though by no means sharing the same social impact and consequent 'grandeur' of Al-Ghazali, Qazim remains a figure to be reckoned with. In her sixties, she is of the generation that learned and was guided by Al-Ghazali, and forms a link between her and the Islamists of the 1990s who are in their twenties and early thirties.

Preferring to work alone and not be part of any group or movement, Qazim thus affirms her lack of confidence in institutions and contemporary organizations — whether governmental or not. Moreover, whilst Al-Ghazali has traveled extensively to preach her gospel, Qazim, since returning from a study trip to the United States in the late 1970s, has refrained from extensive travel. Al-Ghazali's Islamic education was more extensive and long-standing than that of Qazim. The latter's initial education and training was in journalism and the arts, and her Islamic knowledge is derived from her extensive reading

and study of Islam. Many books have been written about Al-Ghazali, but Qazim has yet to have a biography written about her.

Nevertheless, Qazim's viewpoints are interesting precisely because of the characteristics that differentiate her from Al-Ghazali. Qazim speaks from the standpoint of a Muslim woman who was Westernized in both outlook and demeanor, lived in the West for a few years in the 'heady sixties', and 'came to Islam' as a result of these contacts with the Western world. She comes into Islam with first-hand experience of being a Muslim, Arab, middle-class, woman intellectual who was faced with negative Western reactions to all these different aspects of her identity. Much of Qazim's writings tends to be illustrative and allegorical.

Qazim, unlike Al-Ghazali, openly admits that women have been and continue to be oppressed. This oppression is manifested in their ignorance of religion and of their rights and obligations within it. Were they to be knowledgeable, she argues, unhappiness caused by fighting with family, with society, with culture would not feature so much. Instead, women would be valued, respected and stronger. She maintains, however, that this oppression has little to do with their sex and more with general tyranny. Thus she refuses to acknowledge it as simply a matter of women's oppression:

There has been oppression against women, but that is a result of ignorance (*jahiliyya*) and barbarism (*hamajiyya*). These are pre-Islamic legacies. It is very important to make a distinction between our heritage (*irth*) and what actually takes

place. It is not the oppression of man to woman, but the oppression of someone who does not fear God to a fellow human being. (*Al-Ahram Weekly*, May 7, 1997)

In an interview with Qazim published in *Al-Ahram Weekly* (May 7, 1997), she asserts that I am all for women's liberation. In my view, a woman's commitment to *Sharia* is the highest degree of liberation a woman can achieve. It is true that many of the rights which *Sharia* grants to women are violated, but it is also true that women should strive to gain those rights. In doing so, women should seek those rights as human beings, avoiding the sexist perspective.

Heba Ra'uf:

Heba Ra'uf is in her thirties, a wife and mother of two, and is a lecturer in the Political Science Department at Cairo University. Having received a relatively exclusive European (German and English) education up to the university level, Ra'uf is an interesting and telling example, not only of the motivations behind recourse to Islamism, but also of the empowering potential it can represent for many Muslim women.

Ra'uf was tutored by the two giants of Islamist activism: Zeinab Al-Ghazali and Safinaz Qazim. Ra'uf in effect represents the young generation of Islamist women activist-leaders in Egypt. However, the continuity she represents should not be taken to mean identical points of departure, or even conclusions. Ra'uf's discourse represents an important difference from that of her male and female colleagues.

It is not uncommon to hear an outright denial, from many Islamist men and women activists, of 'the woman's issue' since, it is argued, Islam refers to the issues of *bani Adam*, or the human race. Ra'uf, while supporting the importance of the larger struggle, has nevertheless diligently shifted her focus in such a manner, so as clearly and yet subtly, to give women's issues some centrality. She has achieved this in a number of ways.

First, Ra'uf's M.A. degree was devoted to an elaborate and carefully thought out dissertation which respected traditional authoritative Islamic texts, but came out with refreshing and novel interpretations on women's roles. Ra'uf then confidently argued and subsequently proved, that according to highly valued Islamic scholarship, women were allowed to occupy the highest public functions as long as they were qualified. Distinctions therefore should not be based on gender, but on qualifications. Arguing thus, Ra'uf effectively backed up the claim that qualified women should be entitled to occupy such positions as heads of state or judges. This is an extremely contentious point, however, especially among the ranks of the Muslim Brotherhood itself. Adopting this stance and simultaneously endearing herself to many of the younger Islamist women, Ra'uf combines courage with political acumen.

Secondly, Ra'uf's public stance whether with younger female Islamist 'conscripts', or via her work as an editor of the woman's page in *Al-Shaab*, also highlight her relatively 'liberal' stance.² According to her,

women become more influential in traditional societies in transition characterized by a lack of a stable base. The weighing scale should be God, for if affairs are left to men only they will be despots, and if left only to women, they will be malignant.

Thirdly, Ra'uf's standpoint on women, a cornerstone of her overall Islamist advocacy, is relatively innovative. In an interview with *Middle East Report* (June 1998), she argues that women's liberation in Muslim societies "necessitates a revival of Islamic thought and a renewal within Islamic jurisprudence". Moreover, in the same article she claims that her aim is not to reconstruct Islamic law (as opposed to deconstructing it), but "actually defending Islam from stagnation and bias" (Ra'uf 1994: 26).

Effectively, Ra'uf maintains that an Islamic liberation movement targets both men and women together, with the aim of changing the existing mentalities which result in gender oppression. Ra'uf's second theme follows from this. She argues that the dichotomy between public and private (a vestige of some Western feminist and anthropological theories) is a falsehood, since the private (i.e. the family) is a microcosm of the larger public arena where power is exercised. Ra'uf thus effectively appropriates the feminist dictum of 'the personal is the political' herself, and adds the dimension of the family to it. In her theorization, the personal (woman) is the public (family) is the political (state). Further, she contends that just as *shura* (consultation) should be realized in the running of the state, so it should also take place in the running of the family. As Ra'uf states, "Islam considers the family as the starting point for any real Islamic society. The same values

² See *Al-Shaab* December 1999, Issue 162.

(operating in the macro public arena) should dominate.” (*Al-Shaab* December 1999, Issue 162.)

One must keep in mind that Ra’uf’s is primarily a political message against the existing state structure, as well as an attempted formulation of some form of ‘Islamist’ women’s liberation. In the context of the former, taking the family as the central unit of analysis and action, Ra’uf is actually appealing to traditional and generally acceptable values, while simultaneously cloaking a woman-centered appeal. The latter is not feasible for her to be forthright about, since it risks bringing her in direct confrontation not only with her male colleagues, but with current Islamist treatises. Hers is the innovative but veiled language of a minority within the Islamist current. Nevertheless, it remains significant that she attempts to develop this “minority discourse” from the platform of a majority force. The latter is in reference to the wide popular social base that the Muslim Brotherhood occupies in present-day Egypt.

Ra’uf describes her goal as that of changing the dominant paradigm ‘from within’. By using the traditional sources she pays her respect to them, while simultaneously seeking their reinterpretation and innovation. Similarly, she strategically places herself within the dominant Islamist trend, but actively works to promote her version of what it is that women should be doing. Ra’uf presents a personal political example, which is legitimized by a tactically placed religious discourse.

Ra'uf has sought a liberating discourse of empowerment from within an Islamist hegemonic paradigm, effectively creating a sub-narrative to the grander narratives of Islam. In sticking to and within the dominant paradigms, Ra'uf has maintained a continuity with Al-Ghazali and Qazim as well as some male Islamists. Yet in calling for women's liberation from within that hegemonic paradigm, she has attempted to make a break — which is in apparent contradiction to her argument that women do not need a separate issue. By emphasizing the family, Ra'uf is seeking to bridge 'the gap' between men and women and arguing for a collective (Muslim) enterprise, which is in contrast to Western individualistic and divisive feminism. Yet, as I shall argue shortly, she effectively participates in creating consent for, and thus perpetuating the hegemony of male Islamist ideology.

Islamist Women's Groups

When discussing Islamist NGOs it is difficult to draw a line between Islamic and Islamist NGOs. The one point of distinction is, arguably, that the former are supported by the government (by listing them as 'general benefit societies' which are accorded privileges over other NGOs (according to Law 32 of 1964), and the latter tend to remain unregistered. As to Islamic NGOs, out of 330 associations registered as 'general benefit' ones, 128 of them are Islamic (Ben Nafissa in Qandil and Ben Nafissa 1994: 273). That is, almost 40 per cent of these associations are professing to work in the name of Islam and as a result are given special status by the government.

What this status effectively means is that in case of dissolution, the government cannot take over the assets of the association. This might seem rather unimportant at first, until the comparison with the case of the secular feminist Arab Women's Solidarity Association (AWSA) is made. After creating some pretext of financial mismanagement to dissolve AWSA, its assets were promptly seized and given to another previously unheard of NGO with the name of 'Women in Islam'. If assets are power-bases, then the government response is a clear indication of the reallocation of power in some peculiar manner to its own favor. Moreover, if the process of denying power to some and bestowing it upon others is an indication of political favor, then the state has openly discriminated against a secular feminist group, and favored its own creation, an 'Islamic' one. In other words, the state has silenced the discourse of secular feminism, while furthering its own 'Muslim' discourse.

These government-supported women's NGOs are not overtly political and dare not challenge government policies or guidelines. Their job, generally, is concentrated on charitable work for Muslim women. The Islamic ideology espoused by these groups is more often than not a reflection of the 'acceptable' and official Islamic line. Some of these organizations may well be sympathetic to the Islamist cause and their line of thinking, but any open support for anti-regime rhetoric or activities would be counterproductive to their existence. Illicit or 'underground' support for Islamist causes would be very difficult to determine — particularly since the activities these groups carry out are kept strictly within the sphere of charity and are not political. Some of these

organizations also have Quranic classes, but these are not used as overt recruitment and indoctrination forums.

Today, in the words of one of them, they are “people interested in working towards more Islamization”. Theirs is a form of ‘structural *jihad*’ in which they “participate in all spheres of life and spread the *Da’wa* [message] in all spheres of life”. The original activity that continues to prosper and be a focal point is what is referred to as ‘Islamic discussion groups’ in which explanations, teachings, interpretations of the Islamic heritage (particularly the Quran, *Sunna* and *Sira*) take place. These sessions are intended as helpful guidance and enlightenment of the seekers, and in some ways, they may be used as recruitment techniques — depending on the aims of the organizers, and the intentions of the larger group if it exists. For many of the participants, however, these discussion groups are the focal meeting points where there is an exchange of information and knowledge about Islam. The general feeling among some participants in these discussions is that ‘proper’ dissemination of the ‘true’ teachings and principles is lacking in ordinary state-controlled systems (i.e. schools, universities and other state-run institutions, as well as the media). Many of the members feel that the state is an illegitimate entity, which is willfully subverting the ‘proper’ teachings for its own corrupt needs and thereby misconstruing, if not polluting the very essence of Islam. These discussion groups are meant as collective counter-attempts to re-educate and disseminate the ‘true’ Islam among the people.

For the Islamist women interviewed, the emphasis was placed on a better understanding of the position and role of women within Islam not only for themselves, but for society as a whole. For them, being Muslim women is seen as a personal identity, a way of living in the modern world, which includes an awareness of the extent of the challenge faced as such. For many of them, it was the sense of loss of this Islamic identity, vis-a-vis the predominance of Western norms and cultures, that pushed them to seek their Islamic heritage. For others there seemed to be a more vehement feeling that it was not just the loss of their Islamic identity, but the feeling that they were made to ignore this sense on purpose by an overriding Western hegemony over all aspects of their lives — a hegemony that they felt was intended to make them feel inferior.

MUSLIM FEMINISTS

Muslim feminism, a phenomenon that became increasingly discernable in the 1990s, continues to spread following the turn of the new century. At this still early stage, it is useful to map the contours of emergent Muslim feminism.

If Muslim feminism is a recent phenomenon, Islam and feminism have an association dating back to the 1890s. At that time, Egypt was an important pioneering site of feminism in the Muslim world, where what would later be recognized as a “feminist consciousness” arose in the context of encounters with modernity. Muslim women and men used Muslim reformist arguments to break the linkage of Islam with repressive practices imposed in the name of religion. This paved the way for changes in women’s

lives and in the relations between sexes. Soon feminism became enmeshed in the rising discourse of secular nationalism which called for equal rights of all Egyptians, be they Muslim or Christian, in a free and independent nation. In short, feminism and Islam were allies.

Muslim feminism, like the secular nationalist feminism of its day, is a product of its time. Muslim feminism appeared on the scene in the wake of the spread of Islamism, or political Islam, and with the broader ascendancy of an Islamic religious and cultural revival. An examination of popular and scholarly literature leads to a basic definition of Muslim feminism as a feminism anchored in the discourse of Islam with the Quran as its central text, and exegesis as its main methodology. The core idea of Muslim feminism is the full equality of all Muslims, male and female alike, in both the public and private spheres.

Muslim feminism is more conservative than secular feminism which called for equal rights in the public sphere but complimentary rights in the private sphere. Concerning the public sphere, Muslim feminists argue that women may be heads of state and imams, a claim that secular feminists never advanced. In the private sphere, Muslim feminists are challenging the conventional notion of male authority over females in marriage and the feminists also call upon all Muslims, including men, to live by the egalitarianism of Islam, something secular feminism side-stepped.

Muslim feminism advocates women's rights, gender equality, and social justice using Islamic discourse as its paramount discourse, though not necessarily its only one. Muslim feminist discourse in Iran draws upon secular discourses and methodologies to strengthen and extend its claims. Wadud-Muhsin, in her women-sensitive interpretation of the Quran, combines classical Islamic methodologies with new social science tools and secular discourses of rights and justice while retaining a firm and central grounding in Islamic thought.³

Although research and general observation indicate that the term "Muslim feminism" is coming into increasing use, its circulation is still limited and both the term and the idea remain controversial. It is also important to make a distinction therefore between Muslim feminism as a discourse, a mode of gender analysis, or an ideology, and Muslim feminist as an identity. Most of those who participate in the shaping of what can be viewed as "Muslim feminism" do not claim a Muslim feminist identity. There are indications, however, that there is some movement towards explicit acknowledgement of Muslim feminism. The shapers of Muslim feminism include the following three groups: those who are more fully oriented towards Islam (sometimes called "committed Muslims"), secular feminists, and former leftists.

Muslim feminism is manifested both as a global or universalist core set of ideas and as specific local forms of activism with their own particular needs and priorities. The

³ See Margot Badran's "Locating Feminisms: The Collapse of Secular and Religious Discourses in the Mashriq" published in a special 50th issue of the African Gender Institute's journal *Agenda* makes this point. Likewise, see Afsaneh Najmabadeh and Ziba Mir-Hosseini in their publications, and Miriam Cooke in her new book *Women Claim Islam: Creating Islamic Feminism through Literature*.

Internet facilitates the dissemination of Muslim feminism's core ideas and the spread of information about local forms of activism. (Ask 1998; Haddad 1998; Karam 1998; Mir Hossieni 1993) Examples of local forms of Muslim feminist activism include demands for women to hold the positions of judge, *mufti* (officials who issues religious rulings), and *ma`dhun* (court registrar responsible for registering marriages) in Egypt.⁴

From the emergence of Zeinab Al-Ghazali in the 1930s as an Islamist feminist voice until the 1970s and 1980s, Muslim feminists tended to regard the feminist case in purely Western terms and Islam was not a component of the debate. With the advent of the Islamic resurgence from the 1960s onwards, the Islamic framework came to the forefront even in the feminist debate. In a short time, many Muslim women have published books and articles on the reinterpretation of the Islamic sources. (Ask and Tjomsland 1998; Engineer 1992; Mernissi 1991, 1992, 1993, 1996; Hassan, Stowasser 1994; Wadud 1999) The project of reinterpretation or of turning back to the primary sources without regarding previous scholarship as infallible, started with the intellectual *salafiyya* movement in the nineteenth century. Although women's issues were not particularly emphasized, some reforms in the view of women were visible. One example is Mohammed Abduh's interpretation of the verse of polygamy in the Quran. Turning away from the common understanding that marrying more than one woman is well accepted, Abduh suggested that the last part of the verse should take effect, namely: "But if you fear that you might not be able to treat them [wives] with equal fairness, then marry only

⁴ Another example is the demand by both men and women in South Africa that women be permitted to share the main mosque space in parallel groups rather than being relegated to the back or an upper floor during congregational prayer. As the intellectual discourse of Muslim Feminism spreads, so too will these localized forms of activism.

one...This will make it more likely that you will not deviate from the right course” (S 4: 3).

In the 1960s and 1970s, feminist scholarship achieved a breakthrough by popularizing relativism. It has become obvious that ‘the objectivity’ of the researcher was only an illusion. Various sciences opened up for new interpretations as it became clear that previous research results had been dominated by male perspectives. The reinterpretation of the Islamic sources by women is a new project and the next decade will show whether this project has any future.

FEMINIST HERMENEUTICS: The new gender- sensitive, or what can be called feminist, hermeneutics renders compelling confirmation of gender equality in the Quran that was lost sight of as male interpreters constructed a corpus of *tafsir* promoting a doctrine of male superiority reflecting the mindset of the prevailing patriarchal cultures.

There are many *ayat* (verses) of the Quran that seem to declare male/female equality. One is *Al- Hujurat*: “Oh humankind. We have created you from a single pair of a male and a female and made you into tribes and nations that you may know each other [not that you may despise one another]. The most honored of you in the sight of God is the most righteous of you [the one practicing the most *taqwa*].” Essentially, ontologically, all human beings are equal, they are only distinguished among themselves on the basis of their rightful practice or implementation of the fundamental Quranic principle of justice. Hence there is no contradiction between being a feminist and being a Muslim, once we

perceive feminism as an awareness of constraints placed upon women because of gender, a rejection of such limitations placed on women, and efforts to construct and implement a more equitable gender system.

Feminist hermeneutics distinguishes between the universal or timeless basic principles and the particular and contingent, or ephemeral. In the case of the latter, certain practices were allowed in a limited and controlled manner as a way of curtailing behaviors prevalent in the society into which the revelation came while encouraging believers or placing them on the path to fuller justice and equality in their human interactions.

Feminist hermeneutics has taken three approaches:

1. revisiting *ayat* of the Quran to correct false stories in common circulation, such as the accounts of creation and of events in the Garden of Eden that have shored up claims of male superiority;
2. citing *ayat* that unequivocally enunciate the equality of women and men;
3. deconstructing *ayat* attentive to male and female difference that have been commonly interpreted in ways that justify male domination.

As an example of a new interpretation of the Quran, we can look at *Sura* (chapter) four, verse 34. While fundamentally equal, humans have been created biologically different in order to perpetuate the species. Only in particular contexts and circumstances will males and females assume different contingent roles and functions. Woman alone can give birth and nurse, and thus, in this particular circumstance, a husband is enjoined by the Quran to

provide material support as indicated in 4:34, “Men are responsible for (*qawwamun*) women because God has given the one more than the other (*bima faddala*), and because they support them from their means.” Wadud-Muhsin, Hassan, Al-Hibri, Naseef, etc. demonstrate that *qawwamun* conveys the notion of providing for and that the term is used prescriptively to indicate that men ought to provide for women in the context of child-bearing and rearing. It also does not necessarily mean that women cannot provide for themselves in that circumstance. The term *qawwamun* is not an unconditional statement of male authority and superiority over all women for all time, as traditional male interpreters have claimed. The women exegetes thus show how classical male interpretations have turned the specific and contingent into universals. I do not want to get into an exegetical battle here and now but rather to indicate Islamic feminist interpretative moves. Concerning the masculinist argument that men have authority over women, while deconstructing particular *ayat* such as the above, the exegetes also draw attention to other *ayat* affirming mutuality of responsibilities as in *sura* nine, verse 71 of the Quran which says that “The believers, male and female, are protectors of one another.”

Within the tradition of feminist theological hermeneutics, in Ask and Tjomsland (1998), Carolyn Osiek distinguishes between five hermeneutic approaches to all religious texts — regardless of religion — by contemporary feminists: loyalist, revisionist, sublimationist, rejectionist and liberationist. Loyalists adopt a literal reading of religious texts, accepting them as divine revelations. The revisionists, according to Osiek, believe that patriarchy is historically and culturally but not theologically determined. The

revisionist approach involves a search for positive role models for women and an interpretation of the texts from a feminist point of view. The sublimationists tend to read allegorically, presupposing equality of sexes or even a preference for the female sex. Rejectionists believe that religious texts are so permeated by patriarchal notions that they should be rejected altogether. Liberationist feminists yearn for a transformation of the social order. The focus is on women's liberation and the stamping out of all oppression.

In the new Muslim feminist tradition several of these categories defined by Osiek are visible. Nawal Saadawi can be characterized as rejectionist, whereas Amina Wadud-Muhsin and Riffat Hassan can be classified as loyalist and revisionist. Fatima Mernissi and Leila Ahmed are the closest to liberationist scholarship. However, these categories are not totally distinguishable. Islam plays such a fundamental role in Muslim societies that for a social reformer to exclude Islam necessarily means failure. Therefore many feminists who previously struggled against female oppression in Western feminist terms have now adopted a more favorable attitude toward Islam. For example, Fatima Mernissi in her study *Beyond the Veil* (first published in 1975) considered that changes in the condition of women could be done without the framework of Islam, whereas in her book *Women and Islam* (published in 1987) she has shifted attitudes and beliefs that such a change has to be done from within Islam through a reinterpretation of Islamic sources. However, Mernissi does not give her point of view on the authority of the Quran in either of the two books. The work of Leila Ahmed points in the same direction, as she is vague in her attitude towards Islam. In her 1992 book *Women and Gender in Islam*, she expresses the view that Islam's coming brought with it a deterioration in the status of

women in some places, whereas in other places it had a liberation effect. She does not, however, explicitly reject Islam, but rather the common interpretation of the Islamic sources. It seems that by focusing on Islam, the principles of female liberation have acquired a certain validity in Muslim society, as Islamicly-minded women would sympathize with some of the arguments. As for Wadud-Muhsin and Hassan, both tend to analyze the Quran within a framework likely to be accepted by Islamic scholars. Although several of their arguments would be contested by Islamist scholars, their works are part of an internal Islamic debate.

It is also interesting to note that in the 1980s two Islamist scholars, Muhammad Al-Ghazali and Abd Al-Halim Abu Shaqqa, took up the subject of Muslim women. Their starting point is in the present situation of oppression in the Muslim world, claiming this to be the result of ignorance of 'the true Islam'. Their method is a reinterpretation of *Hadith* in two stages. First, they verify the authenticity of *Hadith*, as they claim that many previously regarded as authentic (*sahih*) in reality are either good (*hasan*), weak (*da'if*) or forged. The second step is to interpret the *Hadith* in light of the Quran. If the common interpretation is not compatible with Quranic text, the *Hadith*, if authentic, has to be reinterpreted to match the Quranic view. Abu Shaqqa in particular claims that many widespread *Hadith* that address women in a negative manner are forged. These scholars' efforts are independent of the recent Muslim feminism. The issue of gender relations is sensitive in a Muslim context. The reactions to Abu Shaqqa and Al-Ghazali from other Islamic scholars have been harsh but less harsh than those towards Muslim feminists.

Wadud-Muhsin and Hassan discuss matters which are also treated by the moderate Islamic scholars, such as the position of the *Hadith* literature in Islamic jurisprudence (*fiqh*) and the role of women in Islam. Hassan's discussion of the authority of *Hadith* reveals her ambivalent attitude. Wadud-Muhsin does not explicitly reject the authority of *Hadith*, but she does not use them in her analysis of the Quran, implying that she perhaps she too doesn't fully support them. The feminists take a stand against much of the *Hadith* dealing with women in a negative way, whereas Islamist scholars would not reject these *Hadith* and would interpret them in a more favorable way. In Islam the established research method is deeply-rooted in age old traditions. With the breakdown of the authority of the traditional *madhhab* (law school system), the research concentrates mainly on textual analysis and thus works methodologically in search of evidence to establish laws and regulations suitable for modern society. The discrepancy in view opens up a conflict as a re-evaluation of *Hadith* is not generally accepted in Islamic theology. The reform feminists are obviously aware of this fact and that explains the vagueness of their formulations. Wadud-Muhsin and Hassan are interpretation oriented, i.e. they make semantic analysis in order to change common interpretations of the text and are thus reformers in the Islamic tradition. They will inevitably have an advantage as their work might get a Muslim audience, whereas the reconstructors, such as Fatima Mernissi, Leila Ahmed and Nawal Saadawi, who are more outspoken in their criticism, would be read favorably by a more limited audience.

Fatima Mernissi:

Although Mernissi's work and research is conducted in Morocco, her insights and approach to Islam and interpretation of Islamic sources is of groundbreaking importance, marking Muslim feminists struggle from within the framework of Islam. Mernissi is more direct in her belief that Islamic law governing the Muslim family should be changed to accommodate the modern economic and political transformation that is increasingly overtaking Muslim societies. She would like to see Morocco and the Islamic world go beyond what she considers to be a seventh-century legal system to a modern one that will match its principles to the current needs of a changing society and continue to evolve as these needs change.

Mernissi believes that there is a state of anomie in Arab society at present. As defined by Emile Durkheim, anomie is more a confusion of norms than the absence of norms; it occurs when the system is shaken, after having prevailed for centuries, when it does not respond to new conditions and has not yet been replaced by a new system. The Islamic moral system which segregates men and women is being challenged, in Mernissi's view, by the fact that women are increasingly entering public life and the work place, previously preserved for men.

In order to examine the content of the traditional Islamic value system with regard to male-female relations, Mernissi refers to the Quran and depends heavily on medieval scholar Al-Ghazali's *Ihya' Ulum Al-Din*. She also makes use of Malik ibn Anas's *Al-Muwatta'*, *Hadith* collections, and classical Islamic works like Ibn Hisham's *Sirat Al-*

Nabi and Ibn Said's *Kitab Al-Tabaqat Al-Kubra*. Although she may not possess a specialist's expertise on the intricacies of Islamic jurisprudence and ethics, Mernissi is respected in academic circles for her critical use and her feminist analysis of the material she collected, employing modern sociological categories with an evident independence of judgement. Mernissi does not consider the modern Western woman as a model for the Muslim woman to emulate. Her method analyzes the male-female relation as an entity in the Islamic system, and she uses comparisons with the West only to underline the unique patterns of this relation in Muslim society.

The Islamic system, in her view, considers the woman to be a powerful and dangerous being, not a weak and inferior one. Hence the Islamic institutions of gender segregation, polygamy and divorce are perceived by Mernissi as strategies for containing female power and danger. In her book *Beyond the Veil*, published in 1975, Mernissi makes much of the concept of *fitna*, a seductive quality which she perceives Islam as ascribing to women, by which they entice men and distract them from their social and religious duties. Mernissi also quotes *Hadith* from Al-Bukhari and Al-Tirmidhi to present the Islamic view of the irresponsibility of women's attraction to men and the social danger of unsatisfied sexual desires.

In *Women and Islam*, published in 1987, Mernissi draws attention to the *Hadith* on women in order to investigate their authenticity. She chooses to concentrate on the reliability of the narrators of these *Hadith*. She argues that Abu Hurayra, a famous

narrator of *Hadith* was a misogynist, thus coloring the *Hadith* he transmitted from the Prophet with his own views (Mernissi 1991)

A recent book on the Prophet's household goes one step further in its approach to the Quran and *Hadith* than does Islamic modernism. In *The Veil and Male Elite: A Feminist Interpretation of Women's Rights in Islam*, Mernissi attacks the age-old conservative focus on women's segregation as mere institutionalization of authoritarianism, achieved by way of manipulation of sacred texts, "a structural characteristic of the practice of power in Muslim societies." (Mernissi 1987) Mernissi's own feminist model of the Prophet's wives' rights and roles, both domestic and communal, rests on a new, although literal, interpretation of Quran and *Hadith*, in which she pays great attention to timeframe and socio-political circumstances of Quranic revelations and to the selection and interpretation of traditions, including the discreditation of some textual items as inauthentic by the criteria of classical *Hadith* criticism. Mernissi's approach, a very old one here revived, so far remains a minority voice.

Mernissi also attacks the use of *hijab*, claiming that there is no Quranic evidence that the wearing of a veil is an Islamic obligation. Refusal of the Islamic use of the veil is common among some Muslim feminists. Leila Ahmed in her book *Women and Gender in Islam* argues that veiling for women was a requisite for the wives of the Prophet only (Ahmed 1992:55). On the other hand, the idea of veiling as a symbol of oppression has been rejected by Samira Fayyad, a leading Islamist who has been active in the struggle for female influences in the Islamist movement in Jordan. (Fayyad 1992)

The traditional interpretation of Islamic sources is high on the agenda of the modern feminist debate. The most common issues in contemporary feminist reinterpretation of Islamic sources are:

1. Re-evaluation of Islamic sources
2. Criticism of the use of Islamic sources
3. Criticism of interpretations of Islamic sources
4. Equality of men and women in the Quran

I will exemplify Muslim feminist's examination of these issues by referring to the writings of Amina Wadud-Muhsin and Riffat Hassan. I have chosen to deal only with reform feminists as the likelihood is greater that ordinary Muslims and Islamists will take their views into account and open a discussion with them.

Both Amina Wadud-Muhsin's and Riffat Hassan's approach to the study of the Quran is hermeneutical. In her work, Amina Wadud-Muhsin has only been concerned with the study of the Quran. She has not taken *Hadith* into consideration. Wadud-Muhsin describes her hermeneutical model as being concerned with first, the context in which Quranic passages were written; second, the grammatical composition of these passages; and third, the world view of the Quran. Wadud-Muhsin explains that most of the former Quran commentators adopted an atomistic methodology, in which they would interpret one verse at a time without regarding the text as one part of a whole. (Wadud-Muhsin 1992)

Amina Wadud-Muhsin:

Wadud-Muhsin (1992:2) discusses the objectivity of the interpreters of the Quran, claiming that not one of them can be wholly objective as their 'subjective choices' would color the result of their research. Her main criticism is not of the commentators, but rather of the common conception that there is no distinction between text and interpretation; thus there is a tendency to elevate interpretation to a holy level. She characterizes three approaches to the interpretations of women in the Quran: 'traditional', 'reactive', and 'holistic'. The traditional exegetical works (*tafsir*) she explains are those which interpret the entire Quran with certain objectives in mind, such as grammar, esotericism, rhetoric, history or legislation. She claims this approach to be atomistic with no underlying hermeneutical principles in order to interpret each part of the Quran in light of the spirit of Quran as a whole. In addition, all of these interpretations, both from classical and modern times, have been written by men, and Wadud-Muhsin thus believes that women's experiences have been either excluded from the text or 'interpreted through male vision, perspective, desire or needs of women'. (1992: 2)

The reactive approach to the interpretation of the Quran has, according to Wadud-Muhsin, mainly be concerned with criticism of the Quran and Islam. Modern scholars have justified this criticism because of the poor status of women in Muslim society. However, Wadud-Muhsin states that these scholars, likewise, do not distinguish between the text and interpreter.

The aim of Wadud-Muhsin's study is to demonstrate the best tool for the liberation of Muslim women, namely to turn to the Quran, 'the primary source of Islamic ideology and theology'. (1992: 3) This represents the third approach, the holistic interpretation of the Quran. According to Wadud-Muhsin, this method includes modern social, moral, economic and political aspects and even the issue of women. She refers to Fazlur Rahman's principle of interpreting Quranic passages: "A reader must understand the implications of the Quranic expressions during the time in which they were expressed in order to determine their proper meaning. That meaning gives the intention of the rulings or principles in the particular verse." (1992: 4)

Initially in the Muslim feminist theological debate the idea of equality between the sexes in the Koran is emphasized. Wadud-Muhsin argues that although the Quran distinguishes between man and woman, she finds no difference in the value between them. However, it is important to notice that Islamic scholars in various periods throughout history have accentuated the very same point, but they have tended to link this equality to the relationship between man and the Creator only. Thus, equality of man and woman for both *madhhabists* and the more modern Islamists signifies religious equality, i.e. equality in religious obligations, such as praying and fasting; whereas sociologically man and woman are depicted as having different roles.

Wadud-Muhsin has attacked the common understanding of gender relations in Islam. She bases her arguments concerning equality between men and women in the Quran on human being's incomprehension of the supernatural. In the Quran we can find references

to other worldly happenings which we as humans must interpret allegorically. (Wadud-Muhsin 1992) Wadud-Muhsin examines the story of creation in the Quran, as she believes that attitudes towards women in Muslim society are built on the interpretation of this story.

Riffat Hassan:

In 1985 Riffat Hassan brought up theological inquiries into the Islamic sources. She emphasizes the equality of the sexes which can be read into the story of creation in the Quran and compares this view with *Hadith* literature where a totally opposite view on gender relations can be found. Riffat Hassan, unlike Wadud-Muhsin, devotes a great part of her study to *Hadith*, although she states that she will concentrate on the Quran as it is the ‘primary source of normative Islam.’ (1990:93) She explains *Hadith* to be “the lens through which the words of the Quran have been seen and interpreted”. (1990:94)

Hassan’s starting point is the Islamic texts (Quran and *Hadith*) as well as the whole body of laws and regulations built on these texts. She refers to the refutations of *Hadith* by what she calls ‘moderate’ Muslims – such as the Pakistani intellectual Ghulam Ahmad Parwez and the Indian scholar Moulvi Cheragh Ali — and to the quotations of famous Orientalist scholars — such as Alfred Guillaume and H.A.R. Gibb — where they invalidate the *Hadith* literature. Thus she manages to raise doubts about the validity of *Hadith*. Although she believes that one has to be skeptical towards the *Hadith* literature, she recognizes that to a certain extent *Hadith* are necessary and agrees with Fazlur Rahman that “If the *Hadith* literature as a whole is cast away, the basis for the historicity of the Quran is removed with one stroke”. Hassan claims that religion is being used as an

instrument of oppression rather than as a means of liberation. (Hassan 1990) She argues that “the negative attitudes pertaining to women which prevail in Muslim societies, in general, are rooted in theology”. She attributes this theory to two reasons. First, she explains, the patriarchal environment in Muslim society has made Islamic scholars throughout history interpret Islamic sources in terms of male hegemony. Second, many *Hadith* with negative attitudes toward women are in circulation throughout Muslim society although their authenticity has been questioned and their popularity, even among Islamic scholars, points to the view of women as subordinate to men, as being deeply embedded in Muslim society. In presenting her arguments, Hassan also indicates that many *Hadith* about women are forged as she believes there are incompatibilities between passages in the Quran and many of these *Hadith*. She even criticizes the position of the *Hadith* collections in Sahih Bukhari and Sahih Muslim in Islamic jurisprudence, believing that Muslims accept the two collections as being on a like footing with the Quran.

To Islamic scholars, Islamists and even common Muslims’ criticism of the *Hadith* might be regarded as criticism against Islam itself. This makes the project of feminist reading of the Islamic sources a very delicate matter as there exist utterances attributed to the Prophet which convey negative views of women – such as, for instance, that the majority of the inhabitants of Hell are women [Muslim 1971: 1431 (Vol.IV)]. Some feminists would refute these sayings, claiming them as forgeries, whereas others, such as Wadud-Muhsin have chosen to leave out the matter of *Hadith* and focus solely on the Quranic text and its previous interpreters. However, this method is problematic as the *Hadith* are

regarded as the explanation of the Quran and thus have strong authority in Islamic theology. Others again, such as the Islamist Samira Fayyad, together with male Islamists, such as Muhammad Al-Ghazali and Abd Al-Halim Abu Shaqqa, would explain these hermeneutically, emphasizing the specific situation of every *Hadith*. Thus this specific *Hadith* mentioned above would be explained as an admonition made by the Prophet to women in general and should be understood as a general reminder (*tadhkira*). (Abu Shaqqa 1990: 273)

The differences in interpretation and understandings of *Hadith* point to the multivalence of the text. Not only will *Hadith* be interpreted differently in different contexts, but it also depends in the interpreter how the text will be perceived. The subject of the researcher is also decisive for the understanding of the text. For example, a researcher on gender relations in Islam will search for statements about women only and might fail to notice that there are expressions about men and human beings in the Islamic sources which convey negative views of both men as a category and human kind as a whole. However, these statements have not been understood as generalizations by Muslims themselves, but rather as admonitions and reminders that human beings should follow the path of God. On the other hand, even Islamist scholars have noticed that many *Hadith* have actually been interpreted in terms of male preference or have been presented as authentic (*sahih*) although they are either only good (*hasan*) or weak (*da'if*). (Abu Shaqqa 1990; Al-Ghazali 1989 and 1991; Al-Qadrawi 1990)

IN SUMMARY

Drawing from the history, and more contemporary observation, of Egypt with its pioneering feminist movement, I would like to stress again that Muslim women's feminism has been a feminism within Islam, that is it has articulated itself within an Islamic framework — though not within that framework alone, since this feminism has also articulated itself within nationalist, humanitarian/human rights, and democratic discourses. The distinction between (secular) feminist discourse and Islamist feminist discourse is that the latter is a feminism that is articulated within a more exclusively Islamic paradigm (but even this is complicated). This is not to suggest (or create) a binary between secular feminist and Islamist feminist discourse but rather to point to the discursive categories mobilized. There are imbrications of the secular and the religious in both discourses.

The New Alliance

The continuous frustration of the Egyptian women's movement project to reform the Personal Status Law has prompted some Egyptian feminists to recently enter into an alliance with a rising modernizing religious group that adopts the project of liberal feminism side by side with that of Islamacizing the legal system. According to this group, a reconstructed Islamic law is necessarily a liberal feminist one. Bahiy Al-Din 1995; Chatty and Rabo 1997; Cooke 2001)

The women activists entering this alliance are effectively abandoning the secular in exchange for a more indigenous approach. The representation of the secular feminist goals as Islamic, while enables the women's movements' project of Personal Status Law

reform to come to life, effectively stabilizes it and precludes the possibility of a critique of it. (Ahmed 1992; Al-Ali 2000; Botman 1999; Badran 1995)

Historically, while Egyptian feminism advocated secular feminism as a response to the particular Taqlid organization of the family, through the use of such concepts as equality, consent and autonomy, it had had to rely on its alliance with the secular male elites controlling the state to promote its agenda. However, due to those elites' pursuit of the strategy of splitting the difference, both in legislation and adjudication, between the liberal demands of these feminists and the conservative demands of their religious adversaries, secular feminism has been a continuously frustrated project. For this reason there has been no internal critique of secular feminism in Egypt. Concepts such as equality, autonomy and consent still have, seventy years or so after their initial inception, such an unproblematic normative power for these feminists as to be marshaled repeatedly as if they had determinate and clear content. (Abu-Odeh 2001)

The search for an alliance that promises legislative reform has brought certain Egyptian feminists to consider a shift in strategy. (Bahiy AlDin 1995; Cooke 2001; Joseph 2000; Karam 1998) According to feminist lawyer, Lama Abu-Odeh, the coming together of some historians writing the new historiography on Muslim women, some Egyptian secular feminists, and those advocating the project of "cultural identity" in the Islamic world, namely, Islamicizing the law, at a conference entitled "The Islamic Marriage Contract" sponsored by the Islamic Legal Studies Program at Harvard Law School (January 1999) may very well represent this shift.

A perusal of the literature presented at this conference indicates that liberal feminism has now become the “call to arms” of the (modernizing) religious cultural right (advocating the radical difference of Islam from West and the project of Islamicizing law). These modernizing factions of the religious cultural right seem to adopt projects of reconstruction of Islamic law that pursues methodologies outlined in this chapter to arrive at a liberal feminist account of Personal Status law.

What is attractive about these new modernizing religious culturalists is that their advocacy of Egyptian feminists’ aim to reform the Personal Status Law comes as part of a larger tactical strategy of Islamicizing the legal system. With the tactical understanding that reinterpretation of Islamic canon from a feminist perspective will eventually lead to progressive legal reform in favor of women, effectively, the strategy of Islamicizing the legal system is ultimately meant to translate into a feminist configuration of family law. They therefore seem to be spared having to pursue the strategy of “splitting the difference” which the secular nationalist male elites had to follow to appease the conservative religious right. These modernizing Islamists carry the stamp of legitimacy in the eyes of the conservative right because of their culturalist project and may very well be better situated to push the agenda of the Egyptian women’s movements so dearly desired by Egyptian women’s movement activists. Certain factions of Egyptian feminism may now decide that it is more profitable and effective for them to enter into an alliance with a liberal feminist, culturalist rightist, religious intelligentsia that is on the rise.

The shift may be represented in the following manner: in the old alliance with the secular male elites controlling the legislative and the judiciary, secular feminism had to be sacrificed through “splitting” so that a secular legislative space could be preserved. The conservative *ulammas*, having been deprived of their historical domain of *Taqlid* law and forced to be content with family law as the remaining area of jurisdiction experienced every reform of family law as an attack on a God given right. Incremental reform that preserved transactional reciprocity on the family but attempted to eliminate its most brutal institutions seemed to be the only possible path to follow.

In the new alliance, the feminist coalition realized that it was essential for the women’s movement to diversify its strategies and adopt a credible strategy, which could reach out and win the support of simple, ordinary religious men and women. . The women’s movement, consequently, demonstrated that its engagement in the religious discourse was not inconsistent with the mainstream of the human rights movement, which included the secular feminist movement. “Splitting” as compromise/sacrifice of liberal feminism therefore seems unnecessary. As long as it comes “garbed” with Islamic legal discourse, the new allies promise, it should be fine.

In this chapter — by demonstrating the various strategies toward legal reform adopted by today’s women’s movements in Egypt — it becomes clear that the most effective strategy toward guaranteeing more legal rights for women in the family will be contingent on the strengthening and expansion of a feminist alliance. The next chapters will provide more evidence of the effectiveness of the newly emerging Muslim feminist coalition in

winning public support in their struggle for legal reform and as a result more leverage in the public sphere debates.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER SEVEN:
Dominant Political Forces and the Debates on Personal Status
Law Reform 2000 in the Public Sphere**

Chapter 7 — Dominant Political Forces and the Debates on Personal Status Law Reform 2000 in the Public Sphere

INTRODUCTION

Having discussed in the previous chapters the various women's movements and their shifting strategies toward Personal Status Law reform, I would now like to present my findings from interviews and archival research on the debates by dominant political forces preceding and following the amendment of the Personal Status Law in 2000. In this chapter I expound upon the perspectives of the varying actors that participated in the public sphere discourse on Personal Status Law reform. This chapter will serve as an overview of the arguments for and against reform of Personal Status Law —specifically the divorce laws — within the public sphere preceding and following Personal Status Law 2000 as well as the foundations for the arguments presented by the myriad parties involved in the discourse. As varied as the Egyptian political spectrum is, I will be limiting my discussion to the arguments presented by state officials, modernists, conservatives, Official Islam (clerics representing establishment Islam), and Islamists.

This study's focus on legislative reform, specifically the Personal Status Law, will add a new dimension to multidisciplinary research on women in Muslim society. Data collected through interviews with feminist activists, lawyers, male conservatives and clerics, complemented by archival and legal research on statutes, case law and court procedures will provide a better understanding of this process.

Before delving into the opposing arguments of the varying political actors in Egypt's public sphere, I would first like to briefly present the background of the debate on family

law in Egypt. Throughout the twentieth century, from the 1920s till the 1980s, when the promulgation of Law No.100, 1985 on the family took place, the debate on Personal Status Law in Egypt has been of a surprisingly unchanging nature. Despite a wide array of religious and political forces engaged in the discourse on Personal Status Law reform, among the most vocal throughout most of the history of this debate are secular feminism on the one hand and Islamism on the other. And although the discourse of these two contending parties in the debate has taken over time different twists and turns, the political “project” pursued by each has surprisingly remained the same.

The attempt by the male secular elites who controlled the state and remained outside the debate — for the most part to use state resources to avert a more violent confrontation between the two contending forces — has contributed to the stasis in the situation. In other words, rather than using the resources of the state to promote one project at the expense of the other, and thereby settling the debate in one direction allowing it to move to its next ideological stage, those secular male elites preferred to follow a different strategy. Their strategy was on its face a more “peaceful” one, one that could best be described as that of “splitting the difference”.¹ However, the state’s strategy of “splitting the difference” seems to have only resulted in keeping open the possibility of confrontation between the two contending forces over and over again, to which the recent history of Egypt attests. (Abu Odeh 2001)

Secular political forces have generally been supportive of the expanded opportunities that political, economic and social changes have meant for women, but Islamic clerics and

Islamic institutions have by and large manifested strong opposition to allowing women to escape their peripheral, domestic roles. The conservatives view Islam as an inherited, balanced system of faith and action which is both based on the scriptures and interpreted by the verifying authority of community consensus.² Treating the *Sharia* as the core of Islam, the conservatives' understanding of Islam provides for some adaptation of the scriptures to the needs of the age. However, the processes involved require consensus building and institutionalization. Ultimately, the emphasis is on balance and stability. Traditional customs (*'adat*) are sanctioned in Islamic terms. (Esposito 1998; Haddad 1998; Sullivan 1996)

Muslim conservatives and radical Islamists in recent decades have been speaking out on the status of women in Islam, purporting to demonstrate that fidelity to Islam requires the rejection of the tenets of feminism. New issues regarding women's status that have arisen in the wake of modernization have prompted conservatives and Islamists to undertake the expansion of Islamic rules to cover problems that had no exact counterparts in the past.³ (Abu Rabi 1996; Al-Azmeh 1993; Binder 1988; Dessouki 1982; Eickelman 1997)

¹ Splitting the difference was precisely the tactic adopted by the Supreme Constitutional Court of Egypt (The SCC) as it adjudicated cases pursued by Islamicists trying to undermine the 1985 Personal Status Law reforms.

² Spokesmen of this community consensus are, of course, the lawyer-theologians.

³ As salaried employment outside the home has become common and even necessary for many urban women, Muslim conservatives and Islamists have asserted that "Islam" requires that women should not work outside the home, or that they should not be allowed in jobs where they will have contact with men, i.e. that they should only take jobs dealing with women and children, namely obstetrics and gynecology, elementary school teaching and home economics. With the growth of public education, questions have arisen about the degree to which women should have equal opportunities for study with men. Muslim conservatives and Islamists argue that women should only be allowed to study subjects suitable for females, which tend to prepare the woman for a life oriented toward the home and family. With the modernization of political institutions, new questions about women's political role have also arisen. Muslim conservatives tend to believe that women should not participate in politics and many argue that women should not be permitted to vote.

On the flip side, we find the feminists (whether Islamist, Muslim or secular) who believe they are fighting for a better society. Yet each holds on to the belief that ‘their’ better society is threatened by ‘the Others’ who suffer from a collective false consciousness. Islamists believe that secular feminists are ‘followers of the West’ at worst, and ‘deluded women’ at best. Secular feminists believe that Islamists are influenced by, if not propagating, misogynist rhetoric. Both see the other as the enemy. Meanwhile, in this circus, the Egyptian government plays on the fears of all: appointing Farkhanda Hassan, a strong and secular woman as the head of the ruling party’s NDP Women’s Secretariat (WS), whose main idea is that feminism is unnecessary and is a thing of the past; while Islamizing their media programs and yet rounding up ‘Islamist terrorists’ indiscriminately.

Despite the different doctrines and intentions stressed by the modernists, conservatives, fundamentalist and feminists, the interpreters of women’s issues in Islam today share an ethical-religious approach insofar as they claim simply to advocate what is “legislated by God” on this subject and thus is “truly Islamic.” Interpreters share a common technique in which they base their argumentation on Quranic text and *Hadith*, couching them in scripturalist terms, and concentrates on the theoretical interpretation of the eternally valid word of God and the *Sunna* of the Prophet. As a basis of their paradigms, contemporary Muslim interpreters use a very small number of the hundred or so Quranic verses that deal with women’s issues. Most important among them are *Sura 2 (Al-Baqara)*: 228 and *Sura 4 (Al-Nisa)*: 34 on status; *Sura 2 (Al-Baqara)*: 282 on witnessing; *Sura 33 (Ahzab)*: 59 and *Sura 24 (Nur)*: 31 on clothing and public behavior; and *Sura 33 (Ahzab)*:33 on

staying in the house. In the case of the Quran, its proscriptions are general, broad and flexible in most cases; therefore they could be translated into the terms of a specific social reality by each generation of interpreters. As for the *Hadith*, there is an abundance of varied, and contradictory, traditions, from which Muslim interpreters could and can choose various details to substantiate their teachings. (El-Alami 1992; Esposito 1982; Graham, Hillard and Kamal ElDin 1985; Hatem 1993; Stowasser 1987, 1994)

THE EGYPTIAN POLITICAL LANDSCAPE

The role of the Egyptian state and its relationship to women's activism has varied greatly during the periods of Nasser, Sadat and Mubarak.⁴ In this section I will attempt to explore the Egyptian political landscape which serves as the backdrop for the various political actors and the ensuing discourse on reform of the Personal Status Law. In effect this section will contextualize the multitude agendas and perspectives [vis a vis legal reform] of the varying political camps that make up the political landscape in Egypt, the state, Islamists and women's activists.

The State:

I see the Egyptian state as interventionist, where the lines dividing civil and political society can become blurred, particularly, when similar discourses of political power and legitimacy are being articulated and relied upon.⁵ Moreover, the state's use of particular

⁴ For the purposes of this work, I adopt Gramsci's different uses for the word 'state': in a narrow legal-constitutional sense, as a balance between political and civil society, and as encompassing aspects of both.

⁵ The thorough genealogy of western feminist approaches to the state provided by Pringle and Watson (1992) sheds light on the shifts in and diversity of feminist approaches. Arguing from a post-structuralist vantage point, Pringle and Watson challenge recent socialist and feminist work which recognizes the varieties, diversities and contradictions of 'the state' by altogether rejecting the assumption of the state as structurally given: 'rather than an object or an actor it denotes a series of arenas or a plurality of discursive

laws (e.g. Law 32 of 1964, the Law of Associations which constricts the activity of NGOs and civil society in general) renders state control a defining aspect of the articulation of civil discourses.⁶

The post-1952 interaction between the Egyptian state and the Islamists is a dynamic one which involves periods of covert encouragement on the one hand, and severe repression on the other. I will look at this Islamist-state interaction whilst analyzing it from the Gramscian and Foucauldian standpoints wherein power and domination function in so far as those dominated consent to that domination. In other words, it is the consent of the state to allow the dominance of an Islamic discourse by participating and employing it, and the implied consent of some Islamists to work within state structures and institutions. The encouragement basically takes place at a time when Islamist activity can prove useful as a means to reach the ends of the state in terms of consolidating its ideological hegemony. When these groups are seen to 'overstep the tolerance afforded' by the state, then a severe cycle of repression starts. Throughout this interaction, however, media

forums' (p.63). The rejection of the idea of a unitary state led to a focus on social policies and institutional arenas, such as the law, as well as discourses (Connell 1990; Yuval-Davis 1997). However, the theoretical acknowledgement of differences and specificity by Pringle and Watson is mainly based on European and North American experiences and does not include a consideration of nation-building and state formations in previously colonized states. A post-colonial critique of western feminist approaches to the state is offered by Shirin Rai (1996). She argues that the specific experiences of 'Third World' women are linked to the historical context of colonial interventions and post-colonial nation-building and have direct bearing on women's positions and women's activism. Rai, like many other post-colonial critics, uses the "Third World" as a term of "political opposition, as well as being indicative of the colonial experiences of these states" (Rai & Lievesley 1996:2).

⁶ More recently the focus shifted to discussions about civil society and democratization (Al-Sayyid, 1993; S. Ibrahim 1993, 1995; Norton 1995; Zaki 1995). In these works special attention has been given to Islamist organizations and their role in Egypt's 'civil society' associations (Kepel 1985; Marty and Appleby 1991; Stowasser 1987; Zaki 1995; Zubaida 1992). Zaki, for example, contrasts the general weakness and political ineffectiveness that he attributes to the overwhelming majority of associations to the overall strength of Islamic associations. Islamic private voluntary associations run major schools, hospitals and charitable organizations. Mosque-associated organizations provide social services such as nurseries, medical clinics and educational centers. The dense network of Islamic organizations and associations has replaced the state in many of its social welfare services (Zaki 1995:63)

reports and official literature give one the impression that a 'Muslim' state (which 'respects' Islam and is attempting to implement it in a modern way) is striving to fight off the evil monster of religious extremism. This impression implies a certain 'innocence' on the part of the state, whilst simultaneously emphasizing the pressurizing potential of the Islamist movements.⁷

Islamist Movements

Contemporary Islamic revivalism (*nahdah*) is not a totally new phenomenon. Rather, it builds on a tradition of Islamic revival and reform. Throughout history Muslims faced the dichotomy between faith and practice, and therefore recognized the need to address this failure or crisis. Individuals (theologians, legal scholars and mystics) and movements arose to renew and reform Islamic society.

During the eighteenth century across the Muslim World, Islamic revivalist religio-political movements sprouted in response to a sense of socio-moral decline diagnosed as due to a departure from the straight path of Islam. The political fragmentation of communities and their economic decline were viewed as side effects of this process. Revivalists concluded that the cure was a return to a more faithful following of the Quran and *Sunna*. Islamic revivalists, such as the Wahhabis, reasserted the belief that Islam

⁷ Some of the characteristics of Egypt and other post-colonial states reflect attributes associated with 'weak' states, such as huge and 'flabby' bureaucracies, infrastructural weaknesses to implement policies, a high degree of corporatism and corruption (Rai 1996: 28-30). However, the distinction between 'strong' and 'weak' states, as initially put forward by 'developmental model' theorist Gunnar Myrdal (1968) and later developed by Joel Migdal (1988), glosses over the patriarchal power of any state formation (Rai 1996: 30). It also overlooks the complexities of power struggles, sites of contestation, negotiation and potential influence that characterize the relation between the state and the women's movement.

meant the unity and totality of God's will or law in all areas of life: political, social and moral. (Abu Rabi 1996)

One of the major influences on contemporary Islam is a series of Islamic reformist movements in the late nineteenth century. The first, commonly called Islamic modernism, included among its main proponents Jamal Al-Din Afghani (1838-97) and Mohammed Abduh (1849-1905) in the Arab world. Islamic modernists tried to bridge the gap between their religious heritage and modernity, offering an Islamic rationale for modern political, legal and social change. There was a process of Islamic acculturation and synthesis. Asserting that Islam was a dynamic and progressive religion, modernists sought to appropriate the best of Western science, technology and learning in order to revitalize the Muslim community. Although it inspired movements for educational and social reform and national independence, Islamic modernism remained attractive mainly to an intellectual elite. Failure to produce a systematic reinterpretation of Islam and to develop effective organization to preserve and propagate its message more broadly in Muslim society limited the impact of Islamic modernists. (Abu Rabi 1996; Rubin 1991; Shea 1993)

It was this void which led to the emergence of modern Islamist organizations such as the Muslim Brotherhood and the *Jama'at Al-Islamiyya*.⁸ Their influence as prototypes of

⁸ Hassan Al-Bannah (1906-49) and Sayyid Qutb (1906-66) of the Muslim Brotherhood and Mawlana Abu Al-Ala Mawdudi (1903-79) of the *Jama'at*, are the forerunners and ideologues of contemporary Islamic revivalism. They have contributed to two important dimensions: first, the delineation of Islam as an ideology for all life and the belief that Islam affects public policy as much as private worship; and second, the establishment of effective organizations to implement an Islamic system of government and law through political action.

contemporary Islamist groups cannot be overestimated. Because I regard the term fundamentalism as too laden with Western stereotypes and implying a unity that does not exist, I prefer the more general terms of Islamic revivalism and Islamists. Indeed, Islam possesses a long tradition of revival (*tajdid*) and reform (*islah*), stretching from early Islam to the present day, which provides the historical context for current developments as well as a source of religious legitimacy. (Shea 1993)

Despite governments' efforts to restrict its potential force, religion has remained a presence in Muslim societies throughout the twentieth century. In the 1970s, what seemed to be an increasingly marginalized force in the public life of modernizing states, now reemerged, often violently, as a dynamic socio-political reality. The resurgence of Islamist activity in Muslim politics reflected a growing revivalism in both personal and public life. The indices of Islamist revivalism in the personal sphere were manifested through increased religious observance: mosque attendance, prayer, fasting, more emphasis on Islamic dress and values, proliferation of religious programming and publications, and the revitalization of Sufism. This broader based renewal has been shadowed in public life through a toning down of secularism by governments, as well as an increase in Islamic organizations, banks, educational institutions and social welfare services. (Gaffney 1994; Ibrahim 1988)

The Islamist movement's deep commitment to retrieve authenticity (*asalah*) is a reflection of the deep anxiety and crisis of identity permeating modern Arab society. To the majority of Islamists —especially those who followed in the footsteps of Sayyid Qutb

— the modern nation/state, emerging in the aftermath of colonialism's eclipse, did not stem the tide leading to foreign intellectual hegemony. Instead, one can argue that it propagated cultural dualism and further dependency on the West. (Faksh 1997)

The bone of contention of many Islamist movements is their critique of oppressive social and political reality as well as a passive and subdued intellectual environment. In fact, one of the most significant reasons for what is called the Islamist movement is the active involvement of religious movements in opposition to colonization and dependent, repressive regimes. From the point of view of Islamism, nationalism is an alien and repressive ideology. Arab nationalism, as an intellectual and political force, was rooted in the conceptualization of a limited and sovereign political community that is not congruent with Islamist ideals. (Faksh 1997; Nasr 1996)

One major religious premise of Islamism is that 'correct Islam' cannot be practiced in the twentieth century except in the context of an Islamic political system. Condemnation of the political system complements a rejection of all forms of secular ideologies that make up the intellectual landscape of the modern state. Islamism can, thus, be characterized as the recourse to the vocabulary of Islam, used in the post colonial period to express within the state, or more often against it, an alternative political program. Its understanding of tradition is thus innovative and not anachronistic. (Ibrahim 1988; Enayat 1982)

One can see Islamic revivalism, therefore, as a neo-traditional Islamism, which has felt the impact of the West and has been compelled to forge a kind of intellectual and political

synthesis in response to the formidable challenge of the West. In other words, Islamic revivalism is not a mere assertion of old values in a condensed and purified form, but is a reaction to an encroaching Western and capitalist modernity. (Abu-Rabi 1996)

Reacting to Westernization and its various cultural and political forms and expressions, Islamic revivalism, in the form of the Muslim Brotherhood, aimed, from its very beginning at finding the Islamic solution (*al hall al islami*) — a slogan shared by all Islamist organizations — to the problem of alienation, education, economic organization and social justice in society. The Muslim Brotherhood has carried the task of revivalism since 1928. Emerging in Egypt as a direct response to British hegemony, the Muslim Brotherhood has generated and revived a host of religious, social and political debates. Islamism is a total revolutionary ideology that advanced an Islamic nation without separation of religion and state. Next it proposed an Islamic educational system with the goal of creating the ‘Muslim individual, the Muslim family, the Muslim nation, and the Muslim state’. Third, it attempted to create an economic infrastructure based on Islamic principles to solve social injustice. (Barry 1991)

In summary, one can discern the following identifiable qualities of Islamic revivalism: first, it represents a modern Islamic discourse that has been produced against the dynamics of modern Arab history; second, it is an anti-establishment movement, both politically and religiously; third, it does not agree with the basic premises of Arab nationalism; and fourth, it has reinterpreted Islamic tradition in a way that lends itself to a revolutionary meaning.

While the proliferation of Islamist movements is now evident among the general populace, it mostly manifested itself as a nonpolitical return to traditions. The radicals remained small in number and their violence was contained by the authorities. Their ideologies were far too removed from Egypt's mainstream to have mass appeal. Fiery ideologues preaching new interpretations of Islam gained few followers and those resorting to violence were quickly imprisoned or executed. The growth of observance and piety among the populace seemed to reconcile the masses with the status quo rather than radicalize them. (Gaffney 1996; Shea 1993)

State and Gender

As far as the relationship between women and the state is concerned, the view adopted here is that states incorporate facts of social power in societies in the form of law.⁹ In most state regimes, law is a particularly potent source and badge of legitimacy (MacKinnon 1989: 237). Hence, law is a site of power whilst being the arena through which power is exercised. Law is thus both a tool of oppression as well as of liberation, but in either case it is an instrument of political power. In both cases, the agency of women vis-a-vis the state (and vice versa) is critical (Schuler 1986: 4). In this regard, the secular feminist lawyer Mona Zulficar has said:

⁹ Recent literature by feminist scholars considers historical transformation of states, contestations of state power, nation-building and changing state projects as critical factors in the analyses of women's position and gender issues in a more differentiated manner (Afshar 1985; Badran 1993; Hatem 1993; Kandiyoti 1991, 1995; Karam 1998; Moghadam 1994; Yuval-Davis 1991, 1997). Increasingly the notion of the state as constituting one homogeneous force against which other social forces such as Islamists, communists or feminists struggle has been replaced with conceptualization of heterogeneous institutional arenas with different power relations and offering different possibilities of contestation.

We feel we can work with the government as partners, we have adequate laws and we are trying to use the laws as an instrument of progress. ..We have two fights in Egypt, a fight to change the [Family] law and a fight to implement the new law [but] when you get the approval of the government things happen more quickly.¹⁰

A useful conceptualization has been put forward by Robert Connell, who defines the state as embodying 'gender regimes' and points to the various ways in which the state is implicated in gender relations. As he put it, the state is "constituted within gender relations as the central institutionalization of gendered power. Conversely, gender dynamics are a major force constructing the state, both in the historical creation of state structures and in contemporary politics (1990: 519)." The state's power to regulate and shape gender relations can work towards the consolidation of existing gender relations, but it also has the potential to unsettle the existing gender order through reforms (1990: 529-31).

The ambiguities inherent in state policies have significant implications for feminist politics, which has to work both against and through the state, depending on the specific nature of the state and its policies. Connell specifically addresses the liberal state within industrial-capitalist economies; yet his analysis of the ambiguity inherent in the state's construction of gender relations is even more relevant to post-colonial states. Contradictions, as Kandiyoti argues, emerge in nationalist projects which simultaneously reflect portrayals of women as "victims of social backwardness, icons of modernity or privileged bearers of cultural authenticity" (1991: 431).

¹⁰ Excerpt from interview conducted March 23, 2002.

In other words, tensions between civic forms of nationalism (which describe women as modern citizens who share rights and responsibilities in the process of nation-building) and cultural forms of nationalism (which depict women as the symbols and safeguards of “uncontaminated” culture) characterize post-colonial state formations. Nationalism under Nasser, for example, included women as modern actors in the general scheme of redistribution, modernization and national development. The state under Nasser did not, however, challenge existing gender relations within the family, nor did it allow independent women’s organizations to articulate their own agendas.

Within the parameters of nationalist projects in post-colonial states, resistance to western cultural imperialism became equated with the preservation of existing gender relations, which consequently meant the perpetuation of patriarchal control (Kandiyoti 1991: 442). The fractured nature of the Egyptian post-colonial state, its changing policies under different regimes, its internal divisions and its links to international constituencies account for women activists’ shifting relations to the state. Women are affected in different ways: they are recipients of state policies (which could be either supportive or oppressive) and also try to influence state policies. In this process of mobilization at the level of the state, women activists become part of Egypt’s civil society.¹¹

¹¹ While I agree with Moheb Zaki (1995) that feminist activists represent only a small segment within civil society, his cursory examination of women's groups and their effectiveness reflects the general trend of ignoring women's organizations. This treatment is not unsurprising in the light of general conceptions of civil society and their philosophical underpinnings. The tendency to disregard women's roles and contributions is based on the assumed split between public and private domains which are also gendered (Joseph 1993; Pateman 1989). As Suad Joseph points out, 'civil society is already identified or defined in a site from which women are thought to be excluded - the public domain. And it is characterized by sets of associations that are linked with male activity' (Joseph 1993: 24); hence women's activism is mainly overlooked.

State Officials and the Parliamentary Debate on Personal Status Law Reform in 2000

“One woman’s divorce has been pending in court for 46 years since 1953 and only after the new law was passed was she granted a divorce.” (Al-Ahram February 2, 2000)

“Controversy in Egyptian society over women’s rights: Despite new legislation, society is still wary of the new law because it is an innovation that challenges long held traditions and beliefs over the place of women in society and the family. (Zakaria Nil in Al-Ahram February 1, 2000)

These are just two samples of the headlines that were splashed across Egyptian newspapers and periodicals in the weeks preceding and following the passing of the new Personal Status Law in January 2000. Undoubtedly, the amended law was sparking controversy and heated debate that resonated throughout the public sphere.

Under the new law, signed on January 29th by President Hosni Mubarak, women will be able for the first time to invoke *khulu’* (a woman-initiated category of divorce) on any grounds, as long as they return the groom’s gifts, including the deferred dower (*mahr*) as well as renounce her financial rights (alimony). If a requisite intervention by arbitrators — usually relatives from each side — fails, the divorce will be granted in three months (six months if there are children involved) and is irrevocable. This is the most underlying

feature of the current PSL reform of 2000. For an indepth discussion of the Personal Status Law of 2000, see Chapter 4.

The debate in the People's Assembly and the public sphere at large over the revision of the Personal Status Law was roused when Prime Minister Atef Ebeid, presented the draft Personal Status Law to the *Shura* Council (Senate) on Decemeber 14, 1999 for discussion and amendments. (Al-Wafd, December 15, 1999)

The following day, newspapers, periodicals and other media dedicated the bulk of their articles to the issue of Personal Status Reform. "The new law must ensure compatibility with the four *Sunni* Schools of Jurisprudence. It is based on the most common rulings of the fours *Sunni* Schools of Law [*madhahab*]," wrote Fotouh Al-Shadhly in his column in Al-Wafd – the main opposition paper in Egypt. (Al-Wafd, December 15, 1999) Al-Shadhly added, "the law is in compliance with Article 41 of the Egyptian Constitution, which stipulates that the *Sharia* is the main source of legislation." (Al-Wafd, December 15)

According to Prime Minister Atef Ebeid, President Hosni Mubarak was satisfied that the bill conforms to Islamic *Sharia* (law). Al-Azhar's Sheikh Sayed Tantawi took the same stand. The bill makes it easier for a woman to win a divorce if she renounces her financial rights and to travel abroad, on a court order, without her husband's consent. (Al-Ahram Weekly, December 23, 1999: Issue 461)

“It is really good [the new law], and I think it will solve a lot of problems,” said head of parliament’s legislative committee, Muhammad Moussa. (Middle East Times, December 23, 1999)

“This law will ease the legal wrangling, there is no question about that,” agreed Azza Suleiman executive director of the Center for Egyptian Women’s Legal Assistance.¹² However, “it does not go far enough in addressing some of the core issues facing society,” she added.

“The law deals mostly with procedural issues and gives only scant attention to the real problems,” Suleiman complained. (Middle East Times, December 23, 1999)

There is a general consensus on some provisions that shorten and simplify divorce procedures for women and ensure that financial assistance is provided to divorced women. But there are heated disagreements on other provisions, such as Articles 26 and 31. Article 26 grants a woman the right to *khulu* or the right to win a divorce if she renounces her financial rights. For Mona Zulficar, a lawyer and feminist, this provision is intended to bridge the gap between *Sharia* and the law. “This bill deals with the preservation of the family and one of its objectives is to make the law conform to *Sharia*,” she said. “The Islamic *Sharia* gives the man the right to divorce and gives the woman the right to *khulu*, thus ensuring fairness and justice.”¹³

¹² Extract of interview conducted in January 2000 with Azza Suleiman executive director of the Center for Egyptian Women's Legal Assistance.

¹³ Extract taken from a presentation made by Mona Zulficar at a parliamentary session on Personal Status Law reform held on January 15, 2000.

Prime Minister Atef Ebeid reportedly explained the rationale behind the main amendments of the draft law. Commenting on the *khulu* divorce, Ebeid said:

Article 20 (Khulu divorce) is based on *Sharia* laws. The source of this article is first the Quran: *Surat Al Baqara* (Chapter of the Cow), Aya 229: ‘Divorce is twice; then honorable retention or setting free kindly. It is not lawful for you to take of what you have given them unless the couple fear they may not maintain God’s bounds; if you fear they may not maintain God’s bounds, it is no fault in them for her to redeem herself...’ Second, based on a story recounted in the *Sunna* and *Hadith* — Sahih Bukhari (verified sources of *Hadith*): The wife of Thabet Ibn Qays went to the Prophet to seek his council. She told him that her husband is a pious and well-mannered man above reproach, but nonetheless she hated him and couldn’t stand living with him within the bounds of holy matrimony. The prophet asked her if she was willing to return the garden that Thabet Ibn Qays had given her as dowry, and she said yes and even more... as long as she got a divorce. So the prophet replied that there was no need to give him more, just give him what he had given her. Then the prophet went to Thabet Ibn Qays and told him to accept the returned dowry and divorce his wife. And thus, she divorced herself from Thabet Ibn Qays.” Ebeid added, “And thus we find the justification for *khulu* in Islam.” (Al-Wafd, December 15, 1999)

Article 26 does not obligate a woman to renounce her right to financial assistance for the children in her care.

Abdel-Rahman El-Adawi, an Islamic scholar and a member of Al-Azhar's Islamic Academy, confirmed that the right to *khulu* is contained in *Sharia* and is to be found in the *hadith* (sayings) of the Prophet Mohamed. But other scholars believe that what the Prophet said on the matter was simply a piece of advice, given to a man who was reluctant to divorce his wife. (Al-Ahram Weekly, December 23, 1999: Issue 461)

Feminists Magda Adly and Azza Suleiman view the matter from a different perspective. "The principle works fine for rich women who can afford to buy their way out of marriage, but what are poor women to do? What are they going to live on after divorce?" said Adly. There are also concerns that women may be pressured or bullied into giving up their rights in return for divorce.¹⁴

"I do not like the *khulu* idea. I do not really think that it is something of a bonanza to women," argued Suleiman.¹⁵

Women who decide to terminate their marriage through *khulu* not only leave empty-handed, but they automatically lose support rights, according to MP Moussa.¹⁶

¹⁴ As quoted in Al-Ahram Weekly, December 23, 1999: Issue 461.

¹⁵ Extract of interview conducted in January 2000 with Azza Suleiman executive director of the Center for Egyptian Women's Legal Assistance.

¹⁶ As quoted in Middle East Times, January 23, 2000.

“In my opinion it is not appropriate to allow women to divorce their husbands, especially if the husbands do not wish to terminate the marriage,” said leader of the opposition Wafd party’s parliamentary delegation, Yassin Serag Eddin. “It is important that the man consents to the divorce,” he added. (Al Wafd, January 15, 2000)

The new law however, does not solicit the man’s opinion. Instead, it requires judges to encourage both parties to try to settle their differences out of court. The judge will grant a divorce only if the couple insists and once he signs the divorce papers, the process is irreversible.

At a parliamentary session held on January 21, 2000, Ebeid reiterated the benefits of the new law: “the new law establishes stability inside the Egyptian family and the People’s Assembly would never pass a law that would push one party’s agenda at the expense of the other.” (Al-Ahram, January 22, 2000) To alleviate the conservatives’ concerns, Kamal Al-Shadhly, secretary general of National Democratic party, added, “this law doesn’t take away any of the rights of the husband.” (Al-Ahram, January 22, 2000)

But the fact that the law was primarily intended to uphold the family’s stability has disturbed some feminists. “Preserving the stability of the family, in effect, means subordinating the woman’s interests to the interests of the husband and children. This is reactionary,” said feminist activist Magda Adly. (Al-Ahram Weekly, December 23, 1999: Issue 461.)

The bill also triggered angry reactions from the other end of the spectrum. Some MPs have expressed outrage on the grounds that some of the bill's provisions, such as Article 23, undermine men's rights. This article is two-pronged. The first part stipulates that if a husband denies his wife the right to travel abroad, the latter can go to court, with the judge ruling on the dispute. The second part empowers the judge to prevent a man from travelling if he has not honored his financial obligations toward his family. Some MPs insist that it is unconstitutional to restrict a citizen's freedom of movement. But feminist Azza Suleiman says that some restrictions should be imposed on the practice of going away and leaving a poor wife behind with no source of income. Both Adly and Suleiman believe that, instead of Article 23, women should have just been granted their constitutional right to travel, irrespective of their husbands' position. (Al-Ahram Weekly, January 23, 2000)

Following a month of parliamentary deliberations, the People's Assembly passed the Personal Status Law on January 26, 2000. The following day, Egypt's main official newspaper Al-Ahram reported:

“the People's Assembly agreed to the new bill after six sessions of very heated debate during which they reviewed *Sharia*, the Four *Sunni* Schools of Jurisprudence, *Sunna*, *Hadith* and the Holy Quran as well as opinion of Shaykh Al-Azhar and other religious authorities. This eventually led to removal of Article 26 of the Drafts, which would have allowed wives to travel without the approval of their husbands. The new law also stipulates that divorce will no longer be granted in absentia. It will

be recognized only if registered in court or by a religious appointee of the court (*madthun*) and signed by both husband and wife.” (reported by Sammy Mutwalli in Al-Ahram, January 27, 2000)

Most of the debate at the parliamentary session that preceded voting on the bill centered on Article 20 (*khulu* divorce) in which delegates recommended 80 amendments to Article 20 on *khulu* alone. The final version of Article 20 on *khulu* stipulates that when a wife resorts to the family courts to request a *khulu* divorce, the judge must appoint one mediator from each of the spouses’ families to try to reconcile the couple over a three month period. If the attempt at reconciliation fails, and the wife still wants a divorce, then the judge issues a divorce and releases her from the marriage once she returns her dowry and renounces her financial rights (*alimony*).

“The government amended the *khulu* clause in response to delegates’ request and according to the Malik *madhab* in which the court appoints two mediators to try to fix the marriage over a period of three months. If the wife still insists on *khulu*, then the court will decide in her favor and grant her *khulu* divorce,” said Farouk Seif Al Nasr, minister of justice. (Al-Ahram, January 27, 2000) “The new article 20 is in complete accordance with the Maliki school of jurisprudence,” added Fathy Sorour. (Al-Ahram, January 27, 2000)

Delegate Fathy Shukr suggested that *khulu* be granted only with the approval of the husband. (Al-Ahram January 27, 2000) This provoked an angered response by Dr.

Zakaria Azmi, deputy minister of Justice, who said, “requiring the husband’s approval as a prerequisite defeats the purpose of this clause. We might as well remove it altogether.” (Al-Ahram January 27, 2000) The Minister of Religious Endowments (*Awqaf*), Mahmud Hamdy Zakzouk clarified that “*khulu* without the husband’s approval is in complete accordance with the *Sharia*.” (Al-Ahram, January 27, 2000)

When called upon by the president of the People’s Assembly to present the viewpoint of the Institute of Islamic Research, Dr. Abdel Rahman Aadawi said:

“according to *Sharia*, *khulu* must be based on agreement between the husband and wife. If no agreement is reached then she can resort to the court at which point she will be granted a divorce once she renounces her financial rights. Current law is thus not violating *Sharia* and is in accordance with the principles of Imam Shafie and Imam Malik who said the wife is allowed to seek divorce through agreement with her husband or by resorting to a verdict by the Sultan or judge. The Government’s amendment, which requires the court to appoint two mediators to try to make peace between the spouses over a period of three months is simply introduced as a guarantee to make sure that the wife is resolute in her demand for divorce. After the three months have elapsed, if the husband is still not willing to grant a divorce, then, according to the Maliki School of Jurisprudence, the judge may assume the authority to divorce the wife from her husband.” (Al-Ahram January 27, 2000)

Under the bill, divorcing women without notifying them will no longer be possible.

“There are cases in which husbands divorce their wives, do not inform them, and continue to live with them as if they were still married. It is only after the husbands die, that the wives find out that they had been divorced,” said Mona Zulficar.¹⁷ But under the bill, a man who wishes to divorce his wife will have to do so in the presence of the *madhun* (officiating Muslim cleric), who will document the divorce and notify the wife.

Mohamed El-Beltagui, a professor of *Sharia* at the Faculty of Religious Studies, fumed: “This slaps restrictions on the man’s unrestricted right to divorce, which is guaranteed in Islamic law and which no one has the right to take away.” At the Ihsan Abdel-Quddous cultural “salon,” where he spoke, voices of angry men, supporting his position, erupted from the floor.

When Zulficar attempted to explain that this article was intended to make men reconsider their decision in order to preserve the family, El-Beltagui shouted back that “men should not be denied the exercise of their right even for one day”. One woman from the floor yelled, “You don’t want a man to wait a while before divorcing his wife, when women have to wait for years before they win a divorce.” The woman’s voice was drowned by men’s cheers supporting El-Beltagui’s position that “any attempt to restrict men’s freedom will backfire... If you are going to close in on the man, he is going to find a thousand ways of not conforming, by not marrying the woman, or marrying her the urfi way [without registering the marriage].”

¹⁷ Extract taken from a presentation made by Mona Zulficar at a parliamentary session on Personal Status Law reform held on January 15, 2000.

Granting women who are married in the *urfi* manner the right to seek divorce, contained in Article 31, was also met by opposition from the majority of Islamic scholars. “It is a way of legitimizing adultery by recognizing *urfi* marriage as a veritable marriage,” said El-Beltagui. El-Adawi agreed.¹⁸

Judge Fathi Naguib, a counsellor to the minister of justice, defended the clause on the grounds that people are oblivious to the suffering of thousands of Egyptian women who are married to foreigners the *urfi* way, are later deserted and cannot obtain a divorce.

Temperature at the seminar shot up when Amir Salem, head of the Centre for Human Rights Legal Research, said: “So far, our discussion has been confined to fundamentalist grounds, as if there are no other terms of reference, and as if there are no other sources from which we can draw.” The statement was met by an uproar from the floor; one man got up and headed for Salem, while El-Beltagui had to be restrained by the people seated next to him. “What about human development indicators? Why can’t they be used as our terms of reference?” Salem said. “We are told that if women and men do not enjoy full equality, there are no prospects of real development... We should be discussing these issues in a wider framework than that of Islamic *Sharia*. We should talk about citizens’ rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is another term of reference that should be invoked when we talk about the personal status law. I cannot just rely on Islamic scholars, whose opinions

¹⁸ As quoted in Middle East Times, January 23, 2000.

change with time, and are often discriminatory. Why not seek a more progressive term of reference?”

Fathi Naguib responded that *Sharia* encompasses all human rights and is the best term of reference.

Many wondered, however: if some meager changes favoring women in a draft procedural law could provoke such controversy, what will happen if the substantive Personal Status Law is brought up for reform? “The government is scared of the political response to a reform of the substantive Personal Status Law, which is the real source of oppression and is, therefore, offering some meager rights in this procedural law,” charged Adly. Suleiman and Adly insist that so long as the Personal Status Law remains unchanged, women cannot hope to enjoy full equality before the law.

THE MODERNISTS DISCOURSE ON PERSONAL STATUS LAW

Before presenting the modernist debate on the Personal Status Law of 2000, I would first like to revisit some of the ideological and intellectual roots of Egyptian modernism.

Arrayed against the conservatives and radicals are Muslim modernists — generally the educated upper-class — who have reappraised and discarded many traditional interpretations of the Islamic sources and concluded that authentic Islamic doctrine actually supports reform in the pre-modern *Sharia* rules, reforms designed to ensure the equality of the sexes.¹⁹ The modernists perceive Islam as a dynamic religion; they

¹⁹ Conservative and radical Muslims routinely attack Muslims who advocate equality for women as being servile imitators of the West who are disloyal to the Islamic tradition. One also encounters Muslims who

emphasize its openness and permissiveness as legislated in the scriptures (Koran and *Hadith*). This allows them to consider the factors of time and societal change in their interpretation. To the modernists, therefore, contemporary social concerns are eminently compatible with the flexible blueprint of original Islam as realized in the way of life of the early Muslim community.²⁰ In their efforts to show the compatibility of modern social and political issues with early Islamic norms – or rather in their efforts to legitimize these issues in Islamic terms – the modernists rely on an individual interpretation of the scriptures (*ijtihad*) and de-emphasize the *Sharia* as well as the processes that led to its formation, especially in the process and principle of community consensus.²¹ (Gaffney 1994; Hallaq 1995, 1997; Halliday 1994; Hippler 1995; Moghadam 1997)

Fatima Mernissi, a Moroccan sociologist and one of the founding members of the Moroccan Organization for Human Rights, is among the new wave of ultra-modernists who have reexamined the sources and concluded that Islam, properly understood, calls for equal rights for men and women. This new wave includes Muslim feminists who are reappraising the theological justifications that have been offered for restricting women's rights. The kinds of restrictions that conservative Muslims wish to impose on women's rights tend to be dismissed by Muslim feminists as representing nothing more than

may not believe that full equality of the sexes is compatible with Islamic doctrine but who are nonetheless unsympathetic to the arguments of the conservatives that Islam requires women to be kept enshrouded, subordinated and secluded. (Radwan 1988; Roded 1999; Said 1997)

²⁰ The modernists distinguish this early, open, and "pure" Islam from its later manifestations, which resulted from the war of expansion and a variety of acculturation processes.

²¹ Since the late nineteenth century, members of the elite in Muslim societies have been gradually won over the idea that the pre-modern *Sharia* rules need to be reformed and unified. Except for Saudi Arabia, Middle Eastern countries have introduced reforms to improve women's status and remove many of the disabilities formerly imposed under the *Sharia*. Until the forces of Islamization became so powerful that they were able to reverse the legal trend in favor of granting women greater rights, it seemed that changes in the legal status of women were moving in the direction of greater equality. (Moghadam 1996; Moghissi 1999)

patriarchal attitudes and cultural traditions disguised as religious norms. (Baron 1994; Kandiyoti 1991, 1996; Joseph 2000; Mernissi 1987, 1991, 1992, 1993, 1996; Moghissi 1999)

A substantial portion of the Muslim community seems to espouse views on women's status that constitute a middle ground between the opinions of Muslim feminists and those of the conservatives and radicals. (Moghissi 1999; Moghadam 1993, 1994, 1996) Because of these competing trends in Islamic thought, one cannot predict from the fact that someone is a believing Muslim what that person's position on the issue of women's status will be.

Modernist Debates on Personal Status Law Reform in 2000

No other law presented by the Egyptian government to the People's Assembly has sparked as much controversy as the new Personal Status Law of 2000. Echoing modernist sentiment in the public sphere, Dr. Samir Fadhl, a regular columnist in Al-Ahram newspaper wrote:

“There are two basic principles of Islamic *Sharia*: first that when there is a divergence of opinion and lack of agreement among religious authorities and scholars of Islamic jurisprudence then we should adopt the interpretation that we feel is best suited for our society. Second, the *Sharia* was not meant to be stagnant and is meant to be subject to reinterpretation with the changing times and social circumstances. The *khulu* is based on two main sources: the Quran, *Sura 2, Aya 229*

and second, the Prophetic *Sunna* and the story of Thabet Ibn Qays.” (Al-Ahram January 22, 2000)

When asked by the leader of the Wafd Party, a front for the Muslim Brotherhood, the reason behind reform of the Personal Status Law, Dr. Essam Ahmed, head of the legislative committee in the People’s Assembly replied:

“Why a new Personal Status Law? Minister of Justice Farouk Seif Al Nasr and I have reviewed the draft law numerous times to make sure that it doesn’t violate the *Sharia* or the constitution. There is a need for it now because we realized the necessity of unifying the laws pertaining to personal status. Also we need to speed up the court process for cases on personal status. At the same time, we need to create more equilibrium in the family and protect the family as a whole and not women only. And of course, the stability of the family will lead to stability of society.” (Al-Hawadith, January 27, 2000)

The need for revising the Personal Status Law was further highlighted through comments made by Moataz Zayed, Judge of Personal Status Court.

“And in the past three years, we [in the family courts] have argued over 30 divorce cases that fall under the category of *khulu*, in which case the wives were seeking divorce because they hated their husbands and could no longer tolerate life with the husbands. And in these cases, we used suggest that the husband divorce his wife in

return for her renouncing her financial rights and return her dowry. The husband would usually agree and would go ahead and divorce his wife,” said Zayed. (Al-Hawadith, January 27, 2000)

At the People’s Assembly session held on January 21, 2000, delegate Mohamed Abu Enein, from the modernist camp, elaborated on the timeliness of the law.

“Our society is very much in need of a revision of the Personal Status Law especially due to the suffering of many women whose cases are still held up in divorce courts. The courts are full of cases, which serve as cautionary tales or indicators of a society in peril. The last consensus by the Ministry of Justice estimates over 1.5 million divorce cases pending in the court system. Thus we needed new legislation that will return balance and equilibrium to the family. Women are in need of protection and *khulu* will return justice to marriages and give women the respect between husband and wife. Unlike other delegates, I’m not afraid that *khulu* will be misused nor do I think it will take a way from the respect of the husband.” (Al-Ahram, January 22, 2000)

The modernists seemingly agree on the new Personal Status Law’s compliance with Islamic *Sharia*. “*Khulu* is an Islamic concept and a right for women that is implemented in over seven Islamic countries, including Syria, Tunisia, Morocco and Yemen and it is supported by the Quran and *Sunna*,” said lawyer Mohamed Adel Al-Fiky, lawyer. (Al-Hawadith, January 27, 2000)

Khaled Mohi Eddin, president of the Tajammu party, added “the draft Personal Status Law has been discussed at length by the Institute of Islamic Research and I personally support it especially after reading and re-reading it. I see it as bringing many benefits. As for *khulu*, I agree with the Institute of Islamic Research which has decreed that it in full accordance with Islamic *Sharia*. We believe this is a much needed development for women’s rights.” (Al-Ahram, January 22, 2000)

Echoing early modernists from the 19th century, Dr. Gamal Sidby, professor of Islamic Ideology at Quina University in the Suez said, “*Sharia* has to be in line with social change of each era and should be reviewed periodically to reflect those changes. *Khulu* was definitely sanctioned by the Quran and *Sunna* but it must be used carefully by women so that they are not victimizing their families.” (Al-Wafd, January 23, 2000)

It appears that the disagreement between some of modernists and the more conservative elements in society is over Sura 2: Aya 229.

“Some believe that this aya was misinterpreted because it was meant to address the husband alone, placing the right to divorce solely in his hands,” wrote Dr. Samir Fadhl in his column in Al-Ahram. “In contrast the justification offered for the *khulu* is based on the interpretation that this *aya* addresses both spouses and indicates the women’s right to release herself from the marriage,” he wrote. (Al-Ahram January 22, 2000)

Most of the modernists were equally welcoming of the final amendments to Article 20 (*khulu* divorce) that were introduced on January 26, 2000, perceiving it as yet another gain for women. According to lawyer Fathy Naguib, “the reason the newly amended Article 20 prescribes the appointing of two mediators from each of the spouses families to try to mend the marriage is so that the husband can see the error of his ways and try to change his behavior so that he can lure his wife back to the marriage. It was not intended for the wife to have sufficient time to change her mind, it was intended for the husband to change his ways.” (Al-Ahram February 1, 2000)

Most modernists would probably agree that, “*khulu* is simply an additional cause for divorce.” (Dr. Anwar Raslan, dean of Cairo University’s Law School, as quoted in Al-Wafd, January 25, 2000) “It’s an addition to the existing reasons for divorce,” he said.

THE CONSERVATIVE DISCOURSE ON PERSONAL STATUS LAW

Recently there has been much written on women in Islam, portraying the staunch conservatism of certain elements of Egyptian society. Before I delve into the conservatives views of the Personal Status Law amendments of 2000, I would first like to present a brief overview of the conservatives’ ideology and stance vis a vis women’s rights.

Whether the contemporary conservative writers on women’s issues intend to modernize women’s status or they want to maintain or reestablish a threatened “traditional” or

“original” order, their literature focuses on the ideal of a united Islamic *umma*. Thus, as a literature of faith, it inevitably addresses women’s concerns within a pan-Islamic framework. Women’s issues are dealt with as points of reference to an ideal social and political order which is informed by other concerns, such as socio-economic justice and political legitimacy. It is therefore not surprising to find that the literature produced by the conservative and Islamist interpreters is pervaded by a mood of anguish and disorientation that stems from the discrepancy between the ideal and everyday reality. Their ideal order is one of freedom, lawfulness, social equality, economic justice, affluence, and unity; its social structure is patriarchal, its women veiled and excluded from the public sphere. Everyday reality, on the other hand, is marked by oppressive economic, political, social and cultural problems often played out within domestic dimensions; the patriarchal structures are no longer infallible or unquestioned, as women are gaining access to education, employment and institutionalized political power. The conservatives and extremists reject and call for action against modernity, which they perceive in terms of “Westernization” and cultural contamination. The restrictive tone of their injunction against women’s education (other than in the suitable fields) and participation in public life, must be understood within the context of societies undergoing traumatic change in which the ideal society and actual reality are in stark contrast. (Afrar 1996; Afghani 1970; Al-Ghazali M., 1992; Al-Ghazali Z., 1985, 1988; Al-Qadrawi 1991; Al-Shaarawi 1992; Awde 2000; Graham 1985)

The conservatives feel called upon to stem the tide of social and political change. Their interest in women’s issues must be understood within this context. By designing an ideal

Islamic social paradigm that keeps women in their traditional place, the conservatives inadvertently address these larger goals as well. The argument with contemporary Muslim conservatives is no longer just women's incapability of rational conduct. The tone has shifted to one of panic concerning the future of the traditional social and political order in the Islamic world as they seek to reestablish a mold for society based on the religiously sanctioned, consensus-supported models of the past. The linchpin of this reformatory enterprise is the slogan of "application of Muslim law" (*tatbiq al-sharia*), or in its up-to-date, and somewhat pared-down form, "codification of Muslim law" (*taqnin al-sharia*). (Ahmad 1992; Ashur 1978; Faksh 1997; Gerami 1996)

In contrast to the modernists, the conservatives reject the historicized *ijtihad* as well as the admissibility of such concepts as *istislah* (the public interest).²² (For detailed discussion of *ijtihad*, see Chapter 6.) Instead, they maintain that the scriptures legislate what custom has long established: the social and legal inequality of women and men. Full participation and leadership in political and religious life, as well as control of the family (including superiority of husband over wife) are given to the man because he is strong, and not to the woman, who is weak. According to the conservatives his God-willed order is laid out in the Quran, clarified in the *Hadith* and codified in the *Sharia*, which remains binding. Not all conservatives, however, remain satisfied with the reaffirmation of the continuing validity of the *Sharia*. Among those conservatives who are politically agitated and less informed about legal matters, we find voices that propagate women's lower status in laymen's terms, which are often pseudoscientific. The tendency is to go beyond

²² The concept of *ijtihad* is of particular significance as it provides the ideological tools with which modernists can reinterpret Islamic text from a more progressive — and even feminist — perspective.

women's social and legal inferiority and to enumerate the physiological and psychological factors which prove the equity of this God-willed order. (Gaffney 1994; Gerami 1996)

Undoubtedly due to the pressures of social change and women-related governmental policies, this conservative stance on women's inferior nature began to be replaced after the fifties by a different one that stipulated not the inequality of the sexes, because of the inferiority of one of them, but rather the equality of men and women. This equality, however, was perceived as based on the immutable and complete difference in the nature of the sexes, which is part of God's plan for the world. Conservatives argue that by being completely different, the sexes are mutually complementary. By virtue of her anatomy, the woman is predestined to perform only one task which is to bear and raise children. Furthermore, God gave woman an innate nature in which emotionality prevails over rationality. (Esposito 1999; Gaffney 1994; Gerami 1996; Karam 1998)²³

Conservative Islamic literature differs from the modernists most importantly on the issues of women's participation in public life and women's right to work, by unconditionally and categorically rejecting the modernist argument that it is sanctioned by original Islam.

23 The issues of women's *hijab*, spatial seclusion and domesticity continue to linger in the discourse of Muslim conservatism. Only very rarely do the conservatives prescribe the face veil. For the overwhelming majority, Islamic garb consists of a garment and a hair veil that hide the woman's body except for the face and hands. To be truly a Muslim woman means to wear this dress; failure to do so means that the woman's faith has been shattered and that she will surely be punished by God, especially since she becomes guilty of corrupting all males who come in contact with her and whose unbridled lust she incites. Ultimately, in the conservatives' opinion, the best *hijab* is her home. (Gaffney 1994; Gole 1996; Haddad 1998) The Quran and *Hadith* in conservative interpretation both teach that the Muslim woman is forbidden to mingle with strange men, and that, therefore, she may not work outside the home. The Quranic verses most frequently quoted in this context are *Sura 33(Ahzab):33*, which bids the Prophet's wives to stay in their houses; *Sura 24(Nur):31*, which enjoins Muslim women to refrain from displaying their beauty and ornaments except to

In the conservatives' view, woman's domesticity was designed by God in her honor. In the sermons and writings of the popular Egyptian preacher Shaykh Mohammad Mutwalli Shaarawi, for instance, the house is celebrated as woman's God-given space.

Furthermore, the woman's place is in her home, where she may pursue the noblest of all professions, that is to raise the next generation of Muslims. To attempt to change this God-willed order of task-distribution and to compete with the male who toils outside of the home is sinful and will lead to the corruption of the whole order of being.²⁴ (Gole 1996; Esposito 1998, Haddad 1998; Karam 1998)

Conservative literature generally uses moral issues to substantiate the righteousness of its call for woman's domesticity. According to the conservatives, the woman outside the home, away from her male relatives is a source of *fitna* (social anarchy). According to the conservatives, the social anarchy created by women working outside of their home is most disastrous and most keenly felt inside the family, because a woman who contributes part of the household expenses undermines both her man's divinely appointed obligation to be the family's provider (*Sura* 4:34) and also his *qiwama*, or guardianship over her (*Sura* 4:34).

Moreover, conservatives contend that the woman loses her crown (her chastity) when she leaves her throne (her house) in order to mix with men in the places of lowly lust such as work places. Conservatives contend that working women shirk their religious and social

their relatives; and *Sura* 33(*Ahzab*):33, which forbids the Prophet's wives to engage in pagan *tabarruj*, i.e. the displaying of their charms. (Moghissi 1999; Stowasser 1987, 1994)

²⁴ For the conservatives, what women do or are in the West has no relevance for Islamic society except as a warning example. They argue that there is no need to imitate the West, since women in Islam were given by God Himself the highest rank occupied by women in any culture. Western interference on these issues, therefore, must be explained not just as colonialist attacks designed to disturb and weaken the Islamic weal.

duties by postponing marriage; thereby, they harm Muslim society as a whole, since they fail to have children and expand the *umma*. Work is acceptable only if there exists a true, established need for her to work, if she comports herself with modesty when outside the home and if she gives up her work and returns to the home at the very earliest possibility. (Zuhur 1992)

Women's involvement in politics, according to conservative interpretation, goes against the directives of the religion of Islam. They argue that both the Quran and *Hadith* forbid women access to public leadership positions. The issue is clearly stated in *Hadith* in Sahih Bukhari which says that "a people who have appointed a woman to be their ruler will not thrive." Conservatives argue that this *Hadith* was adopted and supported by the consensus of the early Muslim community and signaled the exclusion of women from all public positions of power (judgeship, military leadership, etc.) The conservatives claim that not only public leadership, but even the franchise is forbidden to women by Islamic standards, because to participate in an election will imply to stand for election; the former will be construed as a means to the latter, and thus the end disqualifies the means. (Gole 1996; Esposito 1998, Haddad 1998; Karam 1998)

Women according to the conservative Shaykh Al-Shaarawi, should be educated and may go out to work, but not at the expense of childcare and preferably in "professions that behoove their maternal instincts," such as teaching, social work and nursing. These two rather limited concessions to modernity — which exceed by far what Islamists would agree to — do not signify a lack of concern on the part of conservatives about the

challenges modern life presents to traditional femininity. The bottom line for the conservatives is that the state and the community at large are bound by duty to force the woman to save her body, her morals and her reputation by forcing her to return to domestic life. (Ahmad 1992; Ashur 1978; Faksh 1997; Gerami 1996)

The Conservative Debates of Personal Status Law 2000

“Wafd delegates withdraw from voting on the Personal Status Law in objection to the government turning a deaf ear to the objections to the draft by Islamic scholars.”
(Mahmud Ghilab writing in Al-Wafd January 26, 2000)

Some of the leading clerics and *fiqh* scholars say that the draft Personal Status Law is in direct violation of the *Sharia* and Islamic jurisprudence. They are basing this decree on conservative interpretation of Quran, *Sunna* and *Hadith*. “The *khulu* divorce is never mentioned in the Sharia and any of the scripture. The form in which it is introduced in the draft Personal Status Law is a direct breach of *Sharia* and its principles. These amendments are rooted in the Population Council Conference that was held in Cairo a few years back and was attended by many women activists, but it will lead to the destruction of the Egyptian family,” writes a columnist in Al-Wafd, the main opposition newspaper and sounding board for Islamist and conservative elements in society. (Al-Wafd, January 23, 2000) He adds:

“The only reason law was approved by Institute of Islamic Research is to avoid complications in the future once the new Personal Status Law is passed. For

example, if a wife who was granted *khulu* divorce remarries, her new marriage will be accepted by society as long as the Personal Status Law is supported by the religious authorities. They had to approve it otherwise it would have created many social problems.” (Al-Wafd, January 23, 2000)

A renown leader of the opposition party and an ally of the Muslim Brotherhood, Yassin Serag Eddin, President of Wafd Party, was somewhat skeptical in his remarks. “We support any law that helps regulate relations between spouses, however, the *khulu* clause needs serious revision. Does this mean if a wife finds her husbands short or less handsome, she can just divorce him?” he said. “*Khulu* as prescribed in *Sunna* requires approval by husband and this is reflected in the story of Thabet Ibn Qays. In addition *khulu* according to the new law becomes a right to repudiate for rich women only. I question, what if Thabet Ibn Qays’ wife was poor and couldn’t return her dowry?” (Al-Ahram, January 22, 2000)

The opposition to Article 20 (*khulu* divorce) seemed to preoccupy the conservative discourse throughout the parliamentary deliberations. Dr. Shawki Al-Sayed, member of the legislative committee of the People’s Assembly pointed out that “the form of *khulu* presented in the draft is very different from that proposed by Al-Azhar’s research council which was formed specifically to study laws on marriage and divorce.” (Al-Wafd January 25, 2000)

In his column in Al-Ahram, Dr. Mahmud Belal Mahran, Professor of Islamic Law in Cairo University, appeared to capture the essence of the conservative argument:

“*Khulu* as presented in the draft Personal Status Law is un-Islamic because it strips the husband of the decision-making right, transferring it to the judge instead. *Khulu* as prescribed by *Sunna* and *Hadith* should be based on agreement between the spouses and shouldn’t be forced on the husband by a judge. Even in the *Sunna*, the prophet (Peace Be Upon Him) asked Thabet Ibn Qays to divorce his wife rather than resolve the marriage himself.” (Al-Ahram January 25, 2000)

Taking it a step further, Dr. Ahmed Omar Hashem, president of the Religion Committee in the People’s Assembly, argued, “not all women who demand *khulu* must be granted a divorce. For the prophet has said that wives who demand *khulu* are opportunists and corrupt women, and women who ask for *khulu* without substantive reasons are not deserving of heaven.” He added, “as a result, we must reword and revise Article 20 on *khulu* because as it stands it is based solely on her request and will and ignores husbands approval or opinion altogether. It places power solely in women’s hand. Also the current law says that once *khulu* divorce is granted, it is not subject to appeal. We must allow husbands to appeal the judge’s decision.” (Al-Ahram, January 22, 2000)

Following the passing of the Personal Status Law bill on January 26, 2000, Shaykh Abdel Aziz Shahin offered a word of warning to the legislative assembly. “*Khulu* is one of the many types of divorce. It is based on two principles: 1) wife must renounce her financial

rights (alimony and dowry) 2) approval of husband for divorce, as specified by the four *Sunni* Schools of Law, and takes place only when the husband himself invokes out loud the repudiation phrase ‘I divorce thee’,” said Shahin. “Divorce must be invoked by the husband and not the judge. If this is not corrected by the new Personal Status Law, it will be a direct violation of *Sharia*,” he cautioned. (Al-Ahram January 27, 2000)

In summary, believing the new Personal Status Law to be a violation of *Sharia* law, conservatives deemed the new law unconstitutional altogether. Mohamed Hamid Gamal, a somewhat conservative columnist in Al-Wafd wrote:

“Objection of Grand Mufti Shayk Mohamed Khater and groups of *ulamma* in the Institute of Islamic Research and Former Minister of Religious Endowments (*Awqaf*) Shaykh Dessouki to the new Personal Status Law means that there is no consensus by scholars and jurors on the new Personal Status Law which makes it a direct contravention of the *Sharia* which requires all decisions to be based on consensus of the *umma*. This means the new Personal Status Law is a constitutional violation since all laws should be based on the *Sharia*.” (Al-Wafd January 29, 2000)

OFFICIAL ISLAM AND ISLAMISM

In this section, I highlight the different views of clerics representing official Islam and Islamists with respect to reform of the Personal Status Law. Having realized by this stage that men’s voices in general receive a great deal more coverage and are more powerful than women’s voices, and given the limited space, I examine only a few clerics and male

Islamists. The male Islamists whose works I examine are Shaykh Muhammad Al-Ghazali, Shaykh Muhammad Mitwalli Al-Shaarawi, and, Shaykh Yuwsuf Al-Qaradawi. My choice of these male Islamist voices is controversial — and deliberately so. The controversy lies in the fact that some of them are arguably voices of official or state Islam. i.e. Al-Shaarawi and Al-Ghazali. Indeed, these two men have appeared and continue to appear frequently on state-controlled television. I have shown, through the voices of the various feminists, that the state does not object to certain aspects of Islamist ideas — especially those that concern women. I have relied on the Islamists I spoke to, to recommend whom they considered the influential male Islamists in their lives. The men who are presented in this chapter, therefore, and who have not been interviewed, are the ones that were mentioned in answer to my questions, and in the course of many talks held with Islamist activists.

I do not present everything the chosen male Islamists have to say about the position and role of women within Islam, but instead I highlight their perspectives on Personal Status Law reform specifically.²⁵

Before I analyze the statements made by the clerics and Islamists on Personal Status Law reform, an important distinction has to be made between official Islam and Islamism in

²⁵ Polygamy and male control (*qawama*) per se are not, in the works I analyze, always written about as independent issues, but are often implicit in the men's opinions on divorce and equality of the sexes. This is also valid as far as feminists are concerned, since polygamy is not discussed as an issue in itself, but more as an aspect of the Personal Status Law. This fact is part-and-parcel of the discursive realities of feminist groups, wherein scholarly, serious and popular challenges to Quranic interpretations (of both polygamy and *qawama*) remain few and far between.

Egypt.²⁶ The former encompasses a wide variety of modes of operation and ideologies. Official Islam, otherwise referred to as 'Establishment Islam', is exemplified by the religious institution *Al- Azhar* and the *Dar Al-Ifta'*, the Office of the Grand Mufti. Al-Azhar is an Islamic institution which encompasses several functions: that of mosque, university, state legitimization, interpretive authority and center of Islamic propagation all in one. Traditionally, Al-Azhar has acted as the place of learning which produced the religious *ulamma* who, in turn, went on to proselytize the faith in various ways. During the nationalist struggles of the early twentieth century, Al-Azhar had a relatively independent role from the state. Many Azharite *ulamma* joined and actively participated in articulating nationalist aspirations at the time. After Nasser came to power, the independence of Al-Azhar was seriously curtailed as the staff — especially the head of the institution — effectively became government employees.²⁷

The attitude of delegitimization accorded to Al-Azhar is prevalent among most Islamist ideologues and is exemplified by the opinions expressed by some leaders of different

²⁶ I use the term Islamists because I feel it is necessary to refer to these groups in terms of the agendas that they themselves proclaim and in some cases implement. 'We can identify them and name them according to what it is they want', was the response of one Leftist Egyptian woman activist, when questioned on her means of reference. Nikki Keddie, one of the first to use the term, asserted that Islamists form the essence of movements for political Islam, usually aiming at an Islamic state that would enforce at least some Islamic laws and customs, including those related to sex segregation, and some economic measures and Quranic punishments (Keddie, in Halliday and Allavi 1988: 15). Similarly, Habib Boulares uses the word 'in the precise sense of an action carried out by militant Muslims so that their concept of religion penetrates the state and society' (Boulares 1990).

²⁷ On several occasions, *fatwas* (religious opinions) were issued by the Shaykh of Al-Azhar in support of certain state policies, or actions, the most notable being Sadat's highly controversial peace initiative with Israel, his visit to Jerusalem and the modifications -reportedly made at the behest of his wife, Jehane Sadat - to the Family Laws that were passed by presidential decree. As such, Al-Azhar came to be seen by many as the official mouthpiece of Islam, and the source of Islamic legitimacy to state power. This repetitive pro-government stance has undermined the legitimacy of Al-Azhar on several occasions -particularly in the eyes of Islamists.

groups.²⁸ Mohammed Al-Ghazali, a leading member of the Muslim Brotherhood, remarked that there were two Islamic blocs in Egypt: the official one formed of Al-Azhar *ulamma*, and one formed of 'Islamic groups/societies', and something along the lines of 'and never the twain shall meet'. Al-Ghazali added later that 'Al-Azhar society has gone to sleep and the Muslim society has followed them' (Al-Said 1977: 57).²⁹

Al-Azhar's political profile has been surpassed by Islamist ideology, in so far as the former has been tainted by its connections with the state, and perceived as a dormant discourse. (Sullivan and Abed Kotob 1997) Islamisms, on the contrary, appear dynamic and aim for deep structural changes at all levels of society — they do not hesitate to challenge state power. Islamisms have politically and strategically outshone Al-Azhar by appearing to provide the long-lost political alternative to Egypt's woes. (Gaffney 1994; Gole 1996; Haddad 1998) Moreover, with the passage of time and the improvement in the quantity and quality of social services offered to the poorer segments of Egyptian society by certain Islamist groups, Islamism has grown to prove itself a viable socio-political alternative. (Ibrahim 1980, 1988, 1995)

²⁸ For instance, Abdel Salam Faraj, an ideologue of the Jihad group, is quoted as having asked sarcastically in his book *Al-Farida Al-Gha'iba* (the Missing Commandment), 'What did the *ulamma* of Al-Azhar do when the troops of Napoleon were desecrating the Muslim soil of Egypt?' (Faraj 1995: 62)

²⁹ Despite this perception, which has gained in strength over the years, Al-Azhar *ulamma* are not totally disregarded by the rest of Egyptian public opinion. Statements by and opinions of the Shaykh of Al-Azhar, for example, still influence a great many people. During the International Conference on Population and Development, for instance, it seemed as though everyone was waiting to hear the Shaykh's opinions on the various debates that had taken place there, ranging from the holding of such a conference in the first place to issues pertaining to reproductive rights and population policies. The role of this venerable institution in mainstream political discourse should not and is not being discounted here. (Ahmad 1992; Ashur 1978; Faksh 1997; Gerami 1996)

Many of the boards of Egypt's traditional bastions of democracy — the professional syndicates — are now presided over, not by Al-Azhar *ulamma*, but by members of the Islamist Muslim Brotherhood. The Labor Party, just before the 1987 parliamentary elections, went into political partnership not with Al-Azhar *ulamma*, but with the Muslim Brotherhood. Effective political opposition to the state is carried out not by Al-Azhar personnel, but by Islamists — both at the level of rhetoric, as well as of action. Quests for state power are not carried out by Al-Azhar male *ulamma*, but by Islamist men and women. And finally, vocal demands for social change and alternative reinterpretations of Muslim women's roles, are voiced not by Al-Azhar *ulamma*, but by women active within Islamist groups.

Official Islam and the Debate on Personal Status Law Reform in 2000

In line with the publicity campaign launched by the Egyptian state in January 2000 to win popular opinion regarding reform of the Personal Status Law, Al-Azhar clerics began to appear on television and radio touting the benefits and justification for the new law. Shaykh Al-Azhar Mohamed Sayed Al-Tantawy in a televised session of the People's Assembly said, "the new Personal Status Law is in complete agreement with the principles of the *Sharia* and Islamic jurisprudence." This was followed by supporting statements by the Egyptian Mufti (Grand Shaykh of the nation) Nasr Farid Wasseel and Dean of Al-Azhar University Dr. Ahmed Omar Hashem. (Al-Wafd, January 23, 2000)

Al-Azhar's support continued throughout the parliamentary deliberations. At the January 21st parliamentary session, Shaykh Moawadh Ibrahim, former member of the committee

of Islamic Decrees (*Fatwa*) in Al-Azhar, provided his strong support for Article 20.

“*Khulu* is founded on Quranic prescription and Islamic jurisprudence and I welcome more rights for women as long as they are in line with the principles of Islam and within the tenets of the *Sharia*, he said. (Al-Wafd, January 23, 2000)

Shaykh Mansur Al-Refai, former deputy minister of Religious Endowments (*Awqaf*), explained:

“*khulu* is an Islamic way of divorce that is in line with the principles of *Sharia*, but it should be used as a last resort. Only after both parties have brought in mediators from their families to try to fix their relationship, then and only then can a woman resort to *Khulu*, and in that case even if her husband objects to the *Khulu*, it is still allowed by religion. The basis of marriage in Islam is to be a peaceful relation with care and civility so if these foundations are missing, then there is no sense in prolonging the marriage. (Al-Wafd, January 23, 2000)

Representatives of establishment Islam — mostly comprised of Al-Azhar scholars and clerics — appeared to be pulling a balancing act. On the one hand, they seemed to support the government’s bill and amendments, and yet, on the other hand, their commentary in the parliamentary debates deliberately avoided granting women “excessive” freedoms. For example, according to Dr. Abdel Rahman Abu Amira, dean of the college of Islamic Jurisprudence, “the *khulu* is a legitimate right of women and is given to women in Quran in special cases when she can no longer tolerate marital life

with her husband.” Abu Amira was quick to add, however, “to be recognized and accepted in court, the wife must give reasons to the judge to grant her a *khulu* divorce. She can’t just declare ‘I hate my husband’ and be automatically released from the marriage.” (Al-Wafd, January 23, 2000)

Addressing the conflict over the husband’s role in granting the *khulu* divorce, the Azharites were less liberal than the modernists. Shaykh Mohamed Abdu Al-Bahwashi, an Islamic court official (*madthun*) explained “*khulu* doesn’t mean that a wife can release herself from the marriage by herself. It requires that both spouses go to the judge and tell him their reasons for staying or leaving the marriage and then only the judge can order the *khulu* to take place.” (Al-Wafd, January 23, 2000)

“*Khulu* cannot be recognized by court unless agreed to by the husband and the judge can not enforce the *khulu* divorce unless the wife has been harmed by her husband in which case it become s a regular divorce,” added Shaykh Mussa Saleh Sherif, Professor of Islamic Research at Al-Azhar University. “*Khulu* doesn’t mean that the right of repudiation has been transferred to the wife because repudiation doesn’t require women to forfeit their financial rights of alimony as is the case with *khulu*,” he concluded. (Al-Wafd, January 23, 2000)

Islamists Discourse on the Personal Status Law

Islamists are by no means a homogeneous group. They range from the radical to the more moderate Islamists. The radical Islamists can be characterized as scripturalist activists in their insistence on a strictly literal interpretation of the scriptures. They thereby bypass

and disregard centuries of work by theological experts. Instead, they translate the sacred texts directly into contemporary thought and action.³⁰ Radical Islamists stress the transcendent nature of God and places emphasis on His ethical commands. It insists on a literal application of the scriptures in all situations and locations, and thus stresses Islamic unity in thought and practice rather than accept diversity in local customs. Furthermore, radical Islamists aim at maintaining the authenticity of the Islamic tradition by rejecting borrowed innovations or customary adaptations that have developed over time. (Ahmad 1992; Ashur 1978; Faksh 1997; Gerami 1996)

As laymen, Islamists rely more on individual interpretation of the scriptures (*ijtihad*) than on tradition or community consensus. In touch with the modern world, usually politicized, the Islamists see themselves as the conscience of Islamic society. As they condemn deviations that endanger the “Islamic way of life,” they see reform as an eradication of foreign (most often equated with pagan, i.e. *jahili*) practices.

The radical Islamists’ blueprint for a just society may differ from the conservative one on issues such as social equality, economic justice and political legitimacy. But in the area of women’s role in society, they speak in similar language, insofar as both emphasize

³⁰ The “Islamic alternative,” advocated by the Muslim Brotherhood and more radical Islamists, should not be seen as a novel phenomenon *per se* although its articulator and the forms of articulation have changed. The articulation of an “Islamic alternative” seems to have been favored by factors of national economic and social unrest over the centuries, yet the manifestations of these forces have differed from one period to the next, as have the responses. The challenges faced by Mohammad Abduh, Rashid Rida and their disciples in the late nineteenth and early twentieth centuries were different from those that brought about Hassan Al-Bannah’s movement in the late 1920s and 1930s. Likewise the manifestations of the political, social and economic crisis faced by Egypt in the 1970s were also different and, consequently, so was the articulation of the “Islamic alternative”. Hassan Al-Bannah’s *Mudhakarat* (Memoirs) written a few years before his assassination in 1949 shed considerable light on his intellectual and religious development. In his memoirs, Al-Bannah often refers to his father and his influence on him, but he rarely mentions his mother, and it is

women's natural and God-given domesticity, glorify the status awarded her in Islam, and predict certain doom to befall the Islamic world if the woman deserts or is lured away from her traditional place in society. (Eickelman 1997; Esposito 1992, 1996; Faksh 1997; Flores 1993)

The Islamists insist on the “static” and immutable nature of Islam as legislated in the scriptures – yet their interpretations are innovative in nature and contrast with the majority of Muslims.³¹ According to the Islamists, then, social reality and social development have no influence on religion, while religion shapes and guides them from above. In their view, there is one holistic Islam and an Absolute Truth, which is valid for all times and places, and does not adapt to change. In short, it is not historically conditioned by time. (Sullivan and Abed Kotob 1997)

The fiercest opposition and greatest obstacle to the feminist wave in Islam in Egypt has come from the Islamists. The pressure they have been exerting on the government has often led to a stagnation in the reforms demanded by feminists. There is no legal matter where the pressures of modernity are more manifest than with regard to the Personal Status Law. This is clearly illustrated in the Islamist response to the 1979 Personal Status Law, which was enacted in 1979 by presidential decree, and not by the People's Assembly, in order to put an end to five years of delaying maneuvers on behalf of the Islamists. Once the law was enacted, the Islamic establishment — for all its reservations

difficult to judge whether Al-Bannah was concerned about the plight of women in Egyptian society at the time.

— gave its official sanction. The 1979 law empowered the wife to initiate divorce proceedings if the husband has taken a second wife against her wishes, requires a divorce to take place before a judge, and endowed the wife with wider rights in matters of alimony, custody and domicile. The law was met with powerful opposition not only among the Islamists but also in the mass following of the conservatives, who claimed that it “runs counter to basic precepts of Islam,” “has already pushed up the divorce rate,” and “is bound to bring about the dissolution of the family in Egypt.”³² (*Al-Liwa*, Issue 73, 1979)

To do justice to the Islamist views, in the next section I will examine some of the voices coming out of the Islamist camp.

Shaykh Muhammad Mitwalli Al-Sha’rawi:

Shaykh Al-Shaarawi is best known by almost all Egyptians for his elaborate and simplified interpretations of the Quran, which have been broadcast on prime-time national television and radio channels for the past ten years or so. A graduate of Al-Azhar, Al-Shaarawi has many years’ experience in teaching the Quran in religious institutions in Egypt, Saudi Arabia and Algeria. Immensely popular mostly for his

³¹ For the Islamists, everyday reality is judged as being either right or wrong, “righteous” or “sinful.” The objective and absolute criteria by which this distinction is made are the eternally valid norms and laws laid down in the Quran and interpreted by the Prophet’s *Sunna*.

³² Most of the religious establishment was far from happy with the bill when it was proposed in 1974, and some Al-Azhar students took an active part in demonstrations against it. Moreover, the 1979 law flies in the face of everything *Al-Liwa* stands for in matters of family, which is the basic cell and last bastion of Muslim society. In line with a position taken by conservatives ever since the late 1940s, the family advocated here is patriarchal, the female role being restricted to procreation and childcare. Defenseless and inherently inferior, women need male protection and guidance. One *fatwa* rules that a women neglecting religious practice can be coerced by her husband to comply, whereas if a husband is guilty of such a lapse, the mufti tells the wife that she can merely plead with her husband yet has no grounds for divorce.

manner of explaining the intricacies of Quranic and general Islamic stipulations in a simple and interactive manner, Al-Shaarawi is a formidable religious figure who appeals to Egyptians across the board. Why am I referring to him as an Islamist? The reason is that both implicit and explicit in Al-Shaarawi's proselytization is a persistent and often veiled call for the Islamization of the state and society. This will become clearer in the following expose of his ideas on women, which are from his book *Al-Mar'a Al-Muslima* (The Muslim Woman), 1992.

On Women's Right to Divorce:

Not surprisingly, Al-Shaarawi does not actually allude to women's right to ask for a divorce, but rather to the fact that men's right to divorce is actually a blessing in disguise for women. His is an attempt to justify and explain the benefits of that right being firmly in the hands of men:

When it comes to divorce for men, there is the fear that we will tell him to explain the reasons for the divorce and so he does, then these might form a constraint if the wife wants to find another husband, or if the husband wants to find another wife. (1992: 60)

In other words, men can be counted upon to be discreet and therefore not spoil the chances for either to resume life with another partner. This is therefore supposed to justify why men have the right to divorce and can do so simply by pronouncing a phrase — presumably in the presence of witnesses.

Al-Shaarawi goes on to say that the ‘enemies of Islam’ take up this divorce issue out of their own frustrations with broken families and disloyal husbands who are stuck with and unable to divorce the wives they dislike because of religious decrees (1992: 58). The stated implication is that in comparison with other societies and religions the Islamic divorce proceedings (if rightly followed) are merciful and less painful to both partners. Further, Al-Shaarawi argues that the high number of divorce cases which are stuck in the courts for years is not so much a condemnation of the divorce process per se, but of the marriage process. The latter is due to a lack of implementing the proper Islamic standards of (the couple’s) meeting. If the whole procedure of marriage, Al-Shaarawi maintains, were to be done in the proper Islamic way, divorce would not be a problem for the courts in the first place, especially since Islam contains advice in cases of trouble between married couples. No where in his explanation does Al-Shaarawi allude to the fact that, in practice, much of the spirit of this policy of mercy is completely thwarted and misused by men. Consequently, no mention is made of the options that should be open to women. But then Al-Shaarawi is unlikely to consider that women should have an independent say in any matter (Al-Shaarawi 1992).

Muhammad Al-Ghazali:

Al-Ghazali, one of the ambiguous mouthpieces of establishment Islam, was previously known and respected as a ‘moderate’, if not progressive, religious scholar, whose views

were in no way radically opposed to the existing regime, and who proposed no overhaul of societal values, but general, overall Islamic guidance.³³

Al-Ghazali's ideas on women were expressed in his book *Qadaya Al- Mar'a Bayn Al-Ta'alidal-Rakida Wa Al-Wafrda*, 1990 (The Woman's Issues: Between Stagnating and Imported Traditions). As far as Al-Ghazali is concerned, the women's issue is a marginal one which is being (mis)- used by two camps -both of which are threatening Islam and Islamic society. These two camps are the Westerners/Orientalists and the extremists within Islam itself. As to the latter, Al-Ghazali says,

A pessimistic evil is attacking Islam due to the seclusion of some of its followers within certain jurisprudential ideas (*Ara' Fiqhiyya*) ...and attempting to present them as the core of the belief [Islam) and its great values. The man who loses the whole market because he prefers one shop to another or one agent to another is not called a trader. (Al-Ghazali 1990: 29)

On Divorce Rights

Al-Ghazali goes to great length to explain the religious procedures of divorce and the rationale behind them. His aim is to clarify that divorce, if properly understood and placed in the right context — neither of which currently occurs according to him — is

³³ This image, however, was rather crudely shattered when he testified, in the capacity of an Islamic scholar and expert. In favor of legitimizing the killing of apostates (*murtadd*) especially when the state fails to deal appropriately with this renegade itself. This occurred after a spate of attacks on certain state figures (among whom were the Prime Minister, Speaker of Parliament, and the Minister of Interior), and especially in the case of Cairo University's Nasr Abu Zaid, who was declared an apostate because of his writings. Al-Ghazali's position in this matter, apart from coming as a shock to many Egyptian intellectuals, also set him

not meant to be an injustice. Al-Ghazali again criticizes ‘narrow-minded’ and ‘unjustified’ interpretations which lead to broken homes and shattered families. He emphasizes that mercy and goodwill towards their wives should dominate men’s decisions and actions when divorcing them. He implicitly advocates that women should not be mistreated in any way by their husbands, but then hastens to say that this ‘kindness’ should not, in turn, be misused by women themselves. All in all, the emphasis is on trying to make men more tolerant towards women. No mention is made of the God-given license for women to share in the right to divorce (‘*isma*, i.e. the right to repudiate usually reserved for men), so that, despite devoting over 15 pages to the issue of divorce, women’s right to divorce is at best taboo and at worst non-existent. (Al-Ghazali 1990: 43-58)

Yusuf Al-Qaradawi:

Not unlike the others, Dr Yusuf Al-Qaradawi also starts his book *Fatawi Mu’asira li Mar’at* ‘A Wal ‘Usra Al-Muslima, (*Recent Fatwas for the Muslim Woman and Family*, 1991) from the premise that Islam has been misrepresented and little understood. In his book dealing with women’s issues, Al-Qaradawi is basically answering questions from and about women all over the Arab Muslim world. It is noticeable, however, that in comparison with the others, his manner of dealing with the issues involves more Quranic and Hadith quotations and justifications. Al-Qaradawi’s answers to the diverse questions reflect a conservative approach rather than a dynamic one. His manner is altogether less innovative.

apart from other conservative Muslim scholars and highlighted his opposition to existing aspects of state and society.

In his first chapter, in answer to a question on whether women are all evil, Al-Qaradawi seems to refute this by referring to Quranic verses and *Hadiths*. However, he does point out that women are considered (like children and wealth) to be a source of '*fitna*' (temptation which leads to turmoil), since they are more wily than men. This age we live in, Al-Qaradawi argues, epitomizes the height of women's *fitna*. The 'destroyers', he warns, use women to undermine inherited values and customs in the name of development and modernization. What is interesting here is not so much the message itself — which is old news by now — but that Al-Qaradawi, unlike the previous Shaykhs, directs his warnings (and call to arms) to Muslim women:

It is a Muslim woman's duty to be aware of these conspiracies, and to prevent herself from being used as a tool for destruction in the hands of the inimical powers to Islam, and to return to what the women of the *umma* were doing during its (the *umma*'s) best centuries: the well-behaved girl, the decent wife, the good mother, and the generous person who works for the betterment of her religion and *Umma*. (Al-Qaradawi 1991:11)

On Women's Right to Divorce

Al-Qaradawi does not disagree with Al-Shaarawi and Al-Ghazali. The right to divorce is *par excellence* man's. Women are made to be the sponge for men's anger. In all the references to divorce that Al-Qaradawi mentions, he is dealing with various situations in which it is the men who have divorced their wives. In most of the cases cited in the book,

husbands are writing to ask his opinion on the implications of uttering the divorce statement in anger (i.e. 'I divorce thee thrice'). Al-Qaradawi obligingly cites religious sources which would nullify a divorce uttered in anger. Nowhere is any consideration given to the fact that the divorced wives have themselves any right to resent this treatment and the whole seemingly simple divorce process. Even less consideration is given to the rights of an angry wife to be divorced. The implication is that anger is forgivable in men, but simply a matter of emotional disposition in women, which can be overlooked. If Al-Qaradawi regards women's choice of dress to be effacing to masculinity, it follows that the right to divorce need not even be considered. For divorce must be more serious than dress, and women are presumed to have no choice in either. (Al-Qaradawi 1991:36)

Male Islamists employ a dichotomy in their argumentation. Rational/ emotional, wise/foolish, good/evil, strong/weak and natural/imposed where the former is associated with the male and the latter with the female. In itself this dichotomization is not new, as binary thought is an integral aspect of Islamist thought, itself based on us/them and good/bad distinctions. The Islamist regime of truth and disciplinary power is reflected here in the precise allocation of roles for men and women which all Islamists agree with, albeit formulated differently. (Esposito 1999; Gaffney 1994; Gerami 1996; Karam 1998)

There is almost no difference in these men's opinions on the roles that women are meant to occupy and the subservient nature that the emotional (woman) must cede to the rational (man). The discipline being referred to here is formulated precisely in the manner in which they impose their ideas — different men dictate the same ideas all the time.

Though they attempt to phrase their ideas in a way that would seem as if women were being given positive status and recognition (with the exception of Al-Shaarawi, who is cruder) the main gist of what they have to say is that women should not assume too much power — if any. The final word is the man's, and the 'public' domain remains male-dominated.

What is important to note is that the Islamist male standpoints herein portrayed differ little from those of other conservative male Muslim thinkers. Hence, my insistence on referring to the two men whose ideas fall within this gray area: Al-Shaarawi and Al-Ghazali, both of whom are also adopted by state-run media as official Islam spokesmen. The reason this is significant has to do with the rationale I gave at the beginning of this chapter: there are certain similarities in the state's perception of gender and those of Islamists. I refer to this as the gray area, where Islamist male gender ideology meets with conservative male gender tenets. This is the arena where, in my opinion, feminists need to direct their resources, since it is also the area where struggles for ideological hegemony between Islamists and the state are least fierce, and hence most dangerous for feminists. For where the two regimes agree most, feminists lose most, since this actually means that feminists have to fight both regimes. This is a reality expressed by Muslim and secular feminists earlier on.

Islamists and the Debate on Personal Status Law Reform 2000

As the Egyptian government pushed for a vote on the Personal Status Law, a group of Al-Azhar scholars (*ulamma*) ask for a three month postponement of voting on the law in

order to review Article 20 on *khulu*. The *ulamma* argued the *khulu* “is not supported by *Sunna*, *Sharia* or the Quran. This article has stripped the will of the husband and replaced it with the will of the judge. Furthermore, hatred of the wife toward her husband is not one of the justifiable causes for divorce that are allowed by the *Sharia*.” (Al-Wafd January 25, 2000)

The bulk of the Islamist arguments against the Personal Status Law is captured in an article published by Al-Wafd. Quoted in this article, as well as numerous others, is Ma'mun Al- Hudhaybi., official spokesperson for Muslim Brotherhood.

Hudhaybi raised questions that had been resonating throughout the Islamist camp. “The law is full of contradictions of the *Sharia* and basic Islamic principles. My question is: if it has been in development and under review by the government and Institute of Islamic Research over the past nine years as the government claims, then why didn't they every present it to the masses to get a feel for the public opinion? Also why won't they reveal how the draft law really originated? And who of the clerics or religious authorities (*ulamma*) participated in drafting it?” (Al-Wafd, January 23, 2000)

Hudhaybi was clearly adamant in his criticism of the government's intentions. “The government says that the draft was presented to the council of religious scholars for study and yet they refuse to print the contents of these meetings and debates. And even within the Institute of Islamic Research, which supposedly approved it, there are members who object to it,” he said. (Al-Wafd, January 23, 2000)

Hinting at the Islamist's suspicion of ulterior motives and conspiracies, Hudhaybi added, "none of the official, state-sponsored media present the opposing arguments against the draft Personal Status Law. This indicates that something fishy is going on. That is why the government presented the draft so quickly and it wants an immediate decision on it so that it is not placed under too much scrutiny," he concluded. (Al-Wafd, January 23, 2000)

Echoing some of the concerns implied by the conservative argument, Hudhaybi explained "the *Khulu* should be agreed to by both spouses and can't be forced on the husband. The way the draft stands at present makes it in direct violation of the Quran, *Sunna* and *Sharia* because the Quran placed the right and authority of initiating and ending marriages in the hand of the husband only." (Al-Wafd, January 23, 2000)

The Islamist interpretation of the *Hadith* on Thabet Ibn Qays was significantly different from that presented by the state and modernists. "The *Hadith* on Thabet Ibn Qays was misinterpreted and manipulated to support the draft. The prophet didn't order Thabet Ibn Qays to divorce his wife; he consulted with the husband and then suggested divorce," said Hudhaybi. "This means that the draft is a departure from the actual events. The story of Thabet Ibn Qays was taken out of context. It was a unique and single case: Thabet Ibn Qays and his wife were still newly married and didn't have the complication of having children. The new draft doesn't make that distinction, which means it contravenes the spirit of Islam which promotes a peaceful family life," he concluded. (Al-Wafd, January 23, 2000)

IN SUMMARY

The modernists, for the most part, represent the well-to-do, Westernized, urban, intellectual elite and are sympathetic both to modernity and to Western ways; they formulate the problematic of women's status in acculturationist terms. Because of their economic, social and cultural minority status, their influence on Islamic society at large is limited and their efforts remain marginal in overall terms, even though their voice has been and continues to be important, especially to the members of their class.

The conservatives continue to adhere to patterns of the past. According to Patrick Gaffney, recent book on the spread of conservative elements in Egyptian society, *The Prophet's Pulpit: Islamic Preaching in Contemporary Egypt*, published in 1994, the spokesmen of conservatism as well as their constituencies are connected to or live in small towns as well as the popular, traditional quarters in urban centers (such as Bulaq, Old Cairo, Sayyida Zaynab, Al-Hussayn, etc), where life has not yet been radically altered by modernization. Here the teachings of *ulamma* and traditional custom continue to be regarded as "right." In the cities, the conservative message is also attractive to older people who deplore the fast pace of change in contemporary society and culture, as well as to the young of traditional background who do not feel comfortable with modernity or for whom modernity holds no promise, while traditional custom — rather than political action — provides a safety anchor in cultural, spiritual and sometimes even economic terms. Through their devout religiosity, conservatives are culturally differentiated from the Westernized political and economic elites of the country. (Gaffney 1994)

In the village, society is conservative, but the conservative Islam professed and observed here is shaped by custom to a larger extent than by the guidance of the *ulamma*. The rural women labor in the fields, outside their homes, as they have done for millennia. Their way of life, then, does not mesh with conservative (let alone radical) teachings on women's status. Yet it is only the modernists (especially Qasim Amin) who speak of women in the villages. Even though rural women's Islamic rights to inherit and bequeath property are rarely applied, Amin erroneously presents rural women as models of health, strength and independence, in other words, in acculturationist and utopian language. As for the conservatives and radicals, they completely disregard women of the countryside — who to this day represent the majority of Muslim women — in their formulation of women's issues in Islam. Based as it is on political, economic, social and educational factors, the urban bias of traditional Islamic culture thus continues to prevail in contemporary Islamic thought.

Having been brought up to date by the preceding chapters, this chapter has examined the discussion on the Personal Status Law reforms of 2000. In this chapter, I present the opinions and rationales regarding legal reform of family law and I also analyze the varying debates in the media by each group (the State, Conservatives, Modernists, clerics and Islamists) surrounding the Personal Status Law 2000 before and after its passage. This is paralleled by an analysis of the changing relationship between the Egyptian state and the feminist mobilization for legal reform in which I will explore the role of the state and pursue the question of whether the state supports or hinders the women activist and their goals. This chapter is of particular importance as it portrays the backdrop against which feminists and women are competing in the public sphere. It is also

integral to demonstrate the opposing arguments and pressure for and against reform in order to understand the huge significance of the proliferation of the Muslim feminist discourse to the disenfranchised women in the informal public sphere — which will be discussed in Chapter 9.

It is worth mentioning that this has been the most difficult chapter to write. Being a Muslim feminist, I found that the male Islamists have a logic that is difficult to agree with. There were many times when I felt a compelling urge to close their books and stop reading them. Reading the way they described women and hearing some of their sermons on television, I found what they had to say degrading, condescending and patriarchal. The only validity I claim in this text in particular is that of their own words as presented in their quotes, and that of my situatedness as a woman — presumably one of those they refer to. Doubtful validities they may be, but let me juxtapose them against the validities in the lives and words of the women activists, in the following chapter.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER EIGHT:
Feminist Debates on Personal Status Law Reform 2000
in the Public Sphere**

Chapter 8 — Feminist Debates on Personal Status Law Reform 2000 in the Public Sphere

INTRODUCTION

Having discussed in the previous chapter the various sects that make up Egypt's political spectrum and their views on Personal Status Law reform, I would now like to present the perspective of women activists, intellectuals, and feminists based on my findings from interviews and archival research. I examine the debates taking place in the feminist and women's activist camp preceding and following the amendment of the Personal Status Law in 2000. In this chapter I will try to expound upon the viewpoints of specific women activists who participated in the public sphere discourse on Personal Status Law reform.

Ignorance of the law is seen as the biggest problem by secular and Muslim feminists. The latter argue that the law itself needs to be amended, whereas Islamist feminists call for it to be scrapped altogether in favor of another set of male-interpreted laws (the *Sharia*).

Yet, the Muslim feminists advocate progressive feminist-based interpretation of the *Sharia* and its application to family law. Effectively, all groups are moving around and remaining mired in the same androcentric argument. The implicit and explicit gender bias underlines a masculine discursive character which permeates the laws, and seems to be based on a dualism of men as rational credible beings and women as emotional (and incredible) beings. Illustrations of this can be found in, among others, the following cases: in the Personal Status Law wives (irrational and incredible) seeking a divorce must do so on conditions which a male judge (rational and credible) must approve. It is this androcentrism that has emerged most clearly from reviewing the various laws. (Gerami 1996; Karam 1998; Zuhur 1992)

Meanwhile, Islamist feminists work with the realization that they are part of a movement of opposition. As such, theirs are issues which form part of a larger pressure group, capable of at least influencing state decisions even if only for the sake of temporary compromise. The latter is best illustrated perhaps by the events surrounding the 1979 Personal Status Law, when the government was forced to amend the law after it was declared unconstitutional. The ability to influence decision-making is very much integral to feminist power. The law is an important arena where such a power is seen to be time-, issue- and context-bound, and thus fluid in diverse ways. Debates surrounding the different legal issues indicate that secular, Muslim and Islamist feminists have a long struggle ahead of them to realize their different sources of power and relative strengths vis-a-vis the Egyptian state, and thus be able positively to influence the course of the legal trends. (Bahiy Al Din 1994, 1995; Banna 1998; Chatty and Rabo 1997; El-Alami 1992, 1996; Joseph 2000)

When debating reform of family law, Egyptian women's activists have had to contend with the fact that, quickly and without much ado, the discussion on the reform always turned into an argument with their opponents about Islamic law. More often than not, the interlocutor adversary, resistant to the feminist reform, hurled back in the direction of those feminists a Quranic verse from here, a prophetic tradition from there, to prove to them that their reformist goal was un-Islamic. No other discussion of legal reform seemed to take this discursive path, at least not so quickly, nor so intensely. (Karam 1998; Zuhur 2000; Zulficar 1995)

Moreover, the claim of the un-Islamicity of these feminists' demands was typically neatly and conveniently packaged by the same religious adversary with another equally powerful claim, namely that they were agents of the "West". The frequency and consistency of this critique suggests that the two charges are often experienced by the proponents of the critique, as implicit in each other. Feminists may be charged with advocacy of Western culture, or of sexual promiscuity that is uniquely Western, or of a Western style of feminist male hating; or charged with an intent to destroy the Muslim family just as happened in the West, or a blindness to the actual difference of the religious East from the materialist West, or, paradoxically, an attempt to impose the norms of the Christian West on those of the Muslim East.¹ (Ahmed 1992; Al-Ali 1997; Botman 1999)

Naturally, some of those feminists found themselves drawn into the hermeneutic path as a response: re-interpret the verse and the tradition to make them read from a woman's viewpoint. Furthermore, feminists counter-argued that most rules on the family were actually conjured up in the past by jurists living in and influenced by a patriarchal medieval culture. Others, of a more secular leaning, resorted to arguments of "social science" hoping that the "religious" adversary would be impressed by numbers and statistics about broken marriages and impoverished children of divorce. (Ask and Tjomsland 1998; Hassan 1990; Wadud 1999)

¹This twin Charge of un-Islamicity and West identification often propped these feminists up into a reactive position of both assertion and dissociation. Yes, they are Muslim and God forbid no, they're neither male hating nor West-identified. They are modernizing Muslims proposing a real and authentic reading of the

The argument presented by religious and political conservatives opposing Personal Status Law reform was of such normative success that it seemed to have always effectively, not only lock the feminists into a discussion about “Islam” but also, to a certain extent, lock them out of a discussion of patriarchy. The normative power of the opposition should not be underestimated.² Not only was it often experienced by those feminists as silencing, more importantly, it seems to have historically succeeded in inhibiting the development of an elaborate cultural critique of the institution of patriarchy in the family forcing Egyptian feminists to be content with micro legal reforms that can pass the “Islamic” muster. (Al-Ali 1997, Botman 1999; Wadud 1999)

A debate that takes place between the secular and Muslim-oriented women’s groups concerns the vast difference between the word of the law and its implementation. The reasons given for this include the lack of awareness among many women of their rights, hence the concerted effort and emphasis within the different programs on legal consciousness-raising to be included within literacy and all other women’s projects.

Another reason was that even for those who were aware there still seemed to be a lack of

original Islamic religious texts and critics of the legalities inherited from the medieval patriarchal culture of the Muslim jurists.

²While its normative power is undeniable, there is nevertheless something “odd” about this “Islamic argument”. This is so because it is taking place against the background of an Egyptian legal system that had undergone over the past one hundred and fifty years of its history a serious and radical rupture from its Islamic legal past. The political elites of Egypt have throughout this period and for various political reasons, progressively dismantled this Islamic legal system: they abolished its rule structure, dismantled its courts, and disenfranchised both its *qadis* (judges) and its *shaykhs* (jurists). No longer is the Egyptian state, though identifying itself constitutionally as “Islamic, organized around the idea that it derives its legitimacy from overseeing the application of God’s law, the *Sharia*, as has been the case in the Islamic world for centuries before. Indeed, everywhere in the contemporary Egyptian legal system, applied laws have European origins, courts are secular, and judges, trained in secular law schools and appointed by the centralized powers of the state, interpret and implement laws in ways familiar to European civilian lawyers.

knowledge about how such rights were to be implemented. Tied to this was the observation that many women were not encouraged to practice their legal rights owing to a variety of social-cultural influences that created value-systems which put such practicing in an unfavorable light. (Al-Ali 1997; Joseph 2000)

From my interviews, it was evident that almost all groups — whether secular, Muslim or Islamist — have a host of criticisms of the Personal Status Law. The secular feminists find it abhorrently male-biased and unjust. Some argue it is unconstitutional and contrary to the principles of human rights, as well as the Convention on Elimination of Discrimination against Women (CEDAW). Muslim feminists share the secularists' basis for concerns, while also arguing that the Personal Status Law actually contravenes the spirit of the *Sharia* on which it is supposedly based. Islamist feminists maintain that the Personal Status Law would be redundant if proper and all-encompassing *Sharia* laws were applied, since the latter would provide total justice and cannot be equaled by any man-made laws.

ISLAMIST FEMINISTS DISCOURSE ON PERSONAL STATUS LAW REFORM

2000

In the mid-1980s, women began forming study groups (*halaqat*), grassroots Islamic consciousness-raising groups in which they met regularly in homes and mosques to discuss their faith and other daily concerns. They read together the laws relating to women and family and the wider Muslim community, they tried to question and analyze

the history of the Muslim faith as well as the implementation of that faith throughout the fourteen hundred years of Islam.

Dr. Zahira Abdine, an official of the Muslim Women's with a Ph.D. in Islamic jurisprudence, is a leader of one of the women's discussion groups that are still meeting until today. She has helped establish many of the satellite groups that continue to sprout all over Cairo. The study groups, purposeful and serious, led women into community service.

Dr. Abdine, who has for many years been part of the Muslim Women's Association, believes that "there is a lack of gender bias, precedence, or prejudice in the essential language of the Quran." Dr. Abdine adds that "the *halaqat* are intrinsic to laying the foundation for more equitable laws for women. By studying the Quran, we realize that scripture holds greater responsibilities for guiding society to fulfillment and justice." When asked about the debate surrounding Personal Status Law reform, she said, "Quranic evidence about the significance and rights of women is very much in line with the new Personal Status Law."

An Islamist activist and graduate student at Cairo University's Law School , who was invited by Dr. Abdine to join our meeting, added that her "reading of the Quran and *Hadith* confirms women's equality and constitutes legitimate grounds for contesting the

old Personal Status Law and the unequal treatment that women have experienced historically.”³

Heba Ra’uf ‘s activities have mirrored those of Dr. Abdine and her study group. Ra’uf teaches political science at Cairo University, but also edits the women’s page of *Al Shaab*, the principal opposition newspaper.⁴ Ra’uf believes “feminists are secularists who are fighting male domination as an obstacle to women’s rights and they concentrate on women’s superior or special nature. Conflict is the main concept of their theory, a theory they even say they want to turn into a paradigm.”

“I declare myself an Islamist,” Ra’uf said. “But this doesn’t mean that I accept the dominant discourse about women inside the Islamic movement. My studies focus on the need for new interpretation of Quran and *Sunna*.”

But what was the base for her proposed Islamic women’s liberation movement?

“My effort is quite different. I am not an Islamic feminist. But I do believe in Islam as a worldview, and I think that women’s liberation in our society should rely on our faith, on Islam. This necessitates,” she added, “a revival of Islamic thought and a renewal within the whole field of Islamic jurisprudence.” She adds “Personal Status Law reform is just the tip of the iceberg.”

³ The student requested to be named by her initials to ensure her anonymity.

⁴ For more detail on Heba Ra’uf’s activism, refer to Chapter 6.

Ra'uf has articulated one of the subtexts of the new Islamic movement: women should play a part in interpretation and implementation of the law.

Upon meeting Safinaz Qazim, it was apparent that she is more conservative in her attire (full-Islamic dress) and, to a certain extent, her philosophy. She is a respected literary and drama critic for the periodical *Al-Mussawir*, which seems to hit the middle-ground between secular and religious concerns, publishing Nawal Al-Saadawi as well as Safinaz Qazim.

“We should benefit from *fiqh* (Islamic Legal Theory) and the contributions of previous generations of Islamic scholars. But this doesn't mean that we have to stick to their interpretations of Islamic sources while we ignore the sociology of knowledge,” said Qazim. She agrees that reviewing *Sharia* laws pertaining to women is necessary.

“Personal Status Law revision should be based on a reinterpretation of *fiqh* from a woman's viewpoint, especially now that we know how involved our Muslim foremothers were in the political process of the first century of Islam.”

Consequently, Heba Ra'uf and Safinaz Qazim and other women like them represent not a return to the past, but an important challenge to the present. For Ra'uf's suggestion about reevaluating previous interpretations is tantamount to asking for a basic change in the position of women.

However, when the Personal Status Law came under revision in January 2000, more conservative voices were being projected throughout the Islamist feminist camp. Islamist writer Alia Al-Hajjar was seemingly less supportive of the new Personal Status Law. “The draft Personal Status Law is the outcome of the Population Council conference, which prescribed legislative reform as a solution to women’s problems, but this will only bring about the destruction of society and family as well as the abandonment of our traditions, Islamic principles and tenets,” she wrote in an article published in *Al-Wafd*. (January 23, 2000) “They [feminists] believe that a new law will solve our problems. Hence we have a diarrhea of new laws,” she opined. “*Khulu* as prescribed in the draft Personal Status Law is unlawful and un-Islamic (*haram*) and the story of Thabet Ibn Qays was a unique situation that shouldn’t be generalized. His wife was newly married and didn’t have children.” Al-Hajjar concluded that “the *khulu* law will create a disaster for which the children will pay. Women must know that their well-being and self-respect will be ensured when the man is returned to his rightful place as head of the household and the draft Personal Status Law is stripping him of his self-respect and rights.” (*Al-Wafd*, January 23, 2000)

Laila Abdel Hamid, treasurer of Women’s Wing of Wafd Party (which is closely allied with the Islamists), was equally critical of the draft Personal Status Law. “The new law proposes solutions that are not in accordance with our traditions and culture,” she said at a parliamentary session held on January 21, 2000. Quoting a *Hadith* popular among conservatives and clerics, Abdel Hamid said, “if women were meant to kneel in subjugation to anyone besides God, they would have been intended to kneel before their

husbands.” She added, “ this is not to denigrate women, but to illustrate the importance, deference and respect owed to one’s husband. Instead, the new law puts women on the same pedestal, as equals to their husbands which is not accepted in our religion and culture.” (Al-Wafd January 24, 2000)

During the same parliamentary session, a more moderate take on the *khulu* clause was presented by activist Dr. Fawzia Abdel Sattar, professor of law at Cairo University and a member of the legislative committee of the People’s Assembly. Abdel Sattar explained:

“*khulu* is not a replacement of divorce based on harm or other reasons... It is just another cause for divorce. A woman can ask the court to grant her a divorce for a number of reasons: 1) harm or abuse; 2) husband’s failure to provide for her or her children; 3) absence of husband for longer than one year; 4) illness; 5) impotence; 6) imprisonment of husband.” She clarified that “*khulu* is simply another cause of divorce in which case the wife can no longer stand her husband. In the case of *khulu*, in contrast to the above cases of divorce, she doesn’t need to provide proof for her request for divorce.” (Al-Wafd January 25, 2000)

On a more cautionary note, Dr. Suad Saleh, professor of Islamic jurisprudence at Cairo University, added that “*khulu* can be used as weapon against women and for embezzlement by the husband. He can mistreat her but refuse to divorce her in order to drive her to the point where she would forsake any financial rights she may have and ask

for a *khulu*. That way he can get the divorce he was initially after as well as free himself from alimony.” (Al-Wafd, January 23, 2000)

SECULAR FEMINISTS DISCOURSE ON PERSONAL STATUS LAW REFORM 2000

The majority of activists I interviewed concurred with the view that the Personal Status Law is a source of inequality and discrimination, but they vary in their demands between modification, reform and drastic change of the existing laws. AWSA’s spokespeople linked the Personal Status Law to the wider subject of women’s place in Egyptian society and clashed ideologically with Islamic extremists. For many activists, the aim to change the laws regulating marriage, divorce and child custody is the only aspect of their conceived goals that touches on women’s ‘private’ lives. However, marriage and divorce are often conceptualized as public affairs and have emerged as signposts of modernization, therefore becoming more legitimate areas of discussion. The widespread perception of the Personal Status Law is that it belongs to the past; that it is outdated and impeding the process of ‘becoming a modern nation’ is at the center of the arguments against it.

Only one activist, Niveen B., expresses the view that there is a direct link between the discriminatory Personal Status Law and the prevailing social norms restricting and controlling the way young men and women meet each other and get married:

“What we actually have to fight against is the underlying system of patriarchy. This should be our main goal because it affects all aspects of our lives: the

existing laws, cultural values, norms that say what is proper and what is not, and so on.”⁵

In the 1980s, the century-old campaign around the Personal Status Law resulted in some sort of compromise between Islamists, the government and the women activists.⁶ The campaign has not been sustained in the 1990s, despite the overall feeling that the law reproduces gender inequalities and discriminates against women. However, one particular aspect of the Personal Status Law, namely the marriage contract, has been the subject of a specific project and campaign carried out by a group of women’s rights activists. This project, based partly on research, and partly on a campaign — targeting both the wider public and the Ministry of Justice — resulted in the drafting of a new marriage contract, a standardized form which includes a list of possible demands, such as the right to work, the right to travel or the right to file for divorce. This standardized contract is intended to help women to articulate their rights and conditions of marriage without alienating their husbands and families. Even if the stipulations mentioned in the carefully devised document do not contradict the rights bestowed upon women in the *Sharia*, the new marriage contract has been the subject of much controversy.⁷

⁵ Excerpt from interview conducted March 31, 2002.

⁶ Azza Karam (1996) in an article titled “An Apostate, A Proposed New Marriage Contract and Egyptian Women: Where to Now?” addresses conservative male interpretation of which rights are granted within Islam and which are not, highlighting the increasing difficulty of attempting to be an efficient social force in an atmosphere in which voices promoting patriarchal values appear to have more weight than voices challenging them. Karam (1996) shows that certain voices have been marginalized in present-day Egypt, while conservative male interpretations and approaches have gained increased legitimacy. However, she emphasizes that Islamist positions are far from homogeneous, as there are Islamist women and men who acknowledge that women have been subject to oppression and have been robbed of the rights granted them within Islam.

⁷ The Egyptian lawyer and activist Mona Zulificar and Hoda Al-Sadda, activist and lecturer at Cairo University, have been particularly engaged in this campaign and in the drafting of the new marriage contract.

In my survey of the wide array of secular women activists and organizations and the platforms from which they articulate their demands for legislative reform — most significantly the Personal Status Law — I found that women activists are usually organized into the following categories: Women's Wings of Political Parties, Women's Associations and Organizations, Non-Governmental Organizations, and finally individual non-aligned intellectuals. In the following section, I will present an overview of the most active women's wings, organizations and associations and their goals and varying strategies in demanding reform.⁸

The Ruling National Democratic Party (NDP)

Farkhanda Hassan, who was appointed by the president as head of the Women's Secretariat (WS) in the NDP, describes the work of the WS in the NDP as follows :

What we do in the party is to prove to the society that women are just carrying on with the process of development. This is a way of deserving [women's] political participation in the decision-making levels. We are few in numbers because men started earlier so they are ahead The percentage of women is small, so that is what we are working on.⁹

When asked about the aims of the WS, Hassan insists that there is only one aim — that of increasing the participation of women in political life and decision-making. How the Secretariat goes about this is by attempting to raise the awareness of society and the

⁸ For a typology of secular women activist, associations and women's political wings, see Chapter 2.

⁹ Excerpt from an interview conducted with Farkhanda Hassan on April 12, 2001.

women themselves. This is through conferences, seminars, various media and other channels. She was silent on the issue of Personal Status Law reform and reiterated that until women become fully involved in the decision-making process, we can not expect to reform laws to women's advantage. And for that reason, she has dedicated her activism to engaging women in decision-making and political participation whenever possible.

The Tajammu' Party

After the Labor Party (strengthened by the Muslim Brotherhood connection), Tajammu'¹⁰ is the second largest opposition party in Egypt. The Tajammu' Party's Women's Wing, the Progressive Women's Union (PWU)¹¹ was formed in 1984. Although the PWU's general political framework falls within that of the Tajammu' Party, "the PWU is independent, and there is no interference from the party in the work of the PWU"¹², says the president of the women's wing, Laila Al-Shall.¹³

The PWU works on four main issues: Citizenship Laws; Law of Associations No. 32 of 1964; Personal Status Laws; and the Labor Laws. On all of these, the PWU, in conjunction with the Tajammu' Party, contributed to the debates on the laws, carried out

¹⁰ Out of the various political parties, the leftist Tajammu' are well organized, have clear and known aims, membership conditions, rules and regulations, and present and future agendas. Both women and men members have a history of involvement in some form of labour activism from an early age. The aspect of labour involvement runs consistently throughout their careers, and the sense of commitment to effecting political change comes across very strongly.

¹¹ They have branches in various governorates and a pyramidal organizational hierarchical structure. Top members of the PWU are key members of the Central Committee of the Tajammu'.

¹² Excerpt from an interview conducted April 12, 2002.

¹³ Laila Al-Shall, worked in the Women's Secretariat of the early *Ittihad Ishtiraki* or Socialist Union of Nasser's times, before its division into parties. Her involvement in labour unions and women's issues was simultaneous. Al-Shall was elected to her post as Assistant Leader of the Progressive Women's Union (PWU) and a member of the Central Committee of the party. She has also worked in a public sector company for the past 30 years and now occupies the highest public service position within it.

studies on their effects, proposed alternative amendments and, in some cases, called for the abolition of the law. The latter is especially the case with respect to the Personal Status Law's Subsection on Citizenship Laws (for which the party has sponsored many court cases of women) and the Law of Associations.

Al-Shall reiterated in a magazine interview (*Al-Ahram Weekly*, Issue 224, Feb.3, 2001) that the PWU works with other women's committees, NGOs and democratic organizations. In fact, "a continuous coordinating committee to coordinate the activities with these democratic associations" exists. However, attempts to organize such a committee on a large scale are, according to Al-Shall, "unwanted by the government". Not unlike other NGOs and political parties, the PWU also organizes and runs literacy classes and income-generating projects, through which "we try to join women to us — we are not a social organization so there is a difference. Our social work has to be done with a political dose."

The women's agendas in the different political parties discussed do not differ to any radical extent from each other. Each of them ultimately aims to improve the lot of Egyptian women: through increasing their literacy rates and their socio-economic position, as well as attempting to eradicate forms of ignorance and discrimination in general. These are all basic concerns.

The means through which these aims are being carried out are sometimes different in nuance, but the creation and execution out of educative, productive and other projects,

each aimed at solving the various problems, is a process that is repeatedly carried out by each party and group. Because of this similarity in processes, there is an immense duplication of effort. In fact, this is a problem that women from across the political parties criticize and complain about. From interviews and statements made by women in the two above-mentioned political parties, all reiterated the necessity of some form of cohesion between women's committees and other independent groups and individuals in order to avoid wasteful repetition, and to try to unify efforts to become more effective.¹⁴

Women's Organizations' Goals and Strategies

While legal awareness constitutes one of the prevailing goals among women activists, a considerable part of women's rights activism in Egypt is channeled towards changing existing laws, to legalize what women activist conceive as '*huquq al-mar'a*' (women's rights). The law that continues to evoke most anger and opposition is the Personal Status Law:¹⁵

¹⁴ No doubt significant differences exist among women activists in terms of what they want and aspire to. Yet the most significant differences exist only with respect to a small but increasing number of activists who are willing to develop feminist positions outside the framework of modernization or dependency paradigms. They reject well-established and historically rooted discourses about and approaches to women's rights within Egypt. It is these women, who include personal forms of oppression within the realm of the family and point to the links between 'public' and 'private', who might succeed in creating the new 'independent discourse' so much needed (Hatem 1993).

¹⁵ Not all activists are convinced that changing the law is the ultimate goal. For members of *Ma'an* (Together) Women's Research Center¹⁵, the exclusive focus on 'rights activism' ignores the underlying problems of exploitation under capitalism and imperialism. They reject short-term goals related to the alleviation of poverty, eradication of illiteracy and the modification of certain rights, but believe in the long-term goal of class struggle within Egypt and the struggle against imperialism on an international level. Being relatively new organization (they started at the beginning of the 1990s), the more immediate and concrete goals relate to building cadres. In a pamphlet produced by *Ma'an* in 1997 it is stated that "knowledge about our history, our rights as well as wider social, economic, cultural and social issues will help us gain confidence and obtain the means to oppose dominant gender ideologies in society". The notion of patriarchy, as a system of male domination, does enter the discourse of members of *Ma'an* and they do acknowledge women's specific problems within the wider struggle against class oppression and imperialist exploitation.

“I am against any set of legal stipulations that could say that women are inferior to men, such as the Personal Status Laws...I do not think there are any women who are happy with any aspect of the Personal Status Laws.”¹⁶ (Randa K., member of Al-Nadim Center for the Psychological Management and Rehabilitation of Victims of Violence)

New Woman Research Center (*Al-Mar’a Al-Gedida*)

Since the closing down of Arab Women’s Solidarity Association (AWSA), *Al-Mar’a Al-Gedida* has been at the forefront of challenges to conventional discourses on women’s subordination in Egypt.¹⁷ Members of the group have also been engaged in the process of expanding the concept of politics. They have no doubt that what they are engaged in is politics and that the issues they raise are political. As they have systematically put previously taboo issues, such as women’s reproductive rights and violence against women, on the agenda, they have pushed the limits of what can be talked about and struggled for. Their general goals include raising feminist consciousness, increasing awareness of legal rights and women’s health, and the struggle against fundamentalism. The activities of the New Woman Research Center include supporting and training women researchers interested in women’s issues; coordinating similar activities and sharing experiences with like-minded NGOs; publishing and distributing literature relevant to women’s issues and setting up a resource center; holding seminars and workshops with various specialists on women’s issues and providing legal and medical consultation to women on a voluntary basis. The NWRC describes itself in its leaflet as:

¹⁶ Excerpt from interview conducted March 15, 2002.

¹⁷ AWSA continues to operate in exile by Nawal Saadawi.

concerned with research and exchange of information, as well as experience in issues that concern women's equality and rights, with I emphasis on Egyptian women in particular and Arab women in general. This center represents a new step in our struggle against the subordination and suppression of women.

These days their aims are more directly linked to the practical implementation and application of their research findings:

“Now we are very interested in creating support programs within the various communities we have been dealing with. We have managed to raise certain issues, such as violence against women. Now we need to implement our findings. This is quite a challenge as we have reached a new phase in our activism.” (Hania K.)¹⁸

With regards to the discourse on the Personal Status Law reforms of 2000, women's groups, within the NDP, Tajammu' and Nasserist parties, as well as NGOs, all seem to feel that the Personal Status Law was at the top of the most problematic list. The main complaints centered on the details of the laws, whilst fewer argued for an effective means to apply them. Too many women were suffering from the difficulties involved with petitioning for a divorce, claiming alimony and contesting custody of children. Among the complaints mentioned was that the decision on whether women should be granted a divorce or not rested with a male judge.¹⁹

¹⁸ Excerpt from interview conducted April 26, 2002.

I do not understand the philosophy behind the production of [these] clauses...I have worked for fifteen years on these cases and I do not understand... I implement all that is possible to implement from these stipulations but I do not understand their philosophy! (Bahiy Al-Din 1995: 107)

Having heard some of the opinions held by Islamic activists, I decided to get some feedback from the secular front. Iqbal Baraka, editor of the women's magazine, *Hawa*, agreed to an interview in her office at Dar Al-Hilal Publishing Company. Baraka, a well-known novelist and short-story writer and a former editor of the avant-garde magazine *Sabah Al-Khayr*, was very adamant in her belief that “oriental feminism is certainly a movement. Our demands, however, are different from those in the West. We need more social freedom, more equality within our families. We need to reform the family laws, the Personal Status Law per se.” Baraka then proceeded to show me recent issues of the magazine, which she said was closely following the debates surrounding Personal Status Law reform. Indeed, one of the headlines from a recent issue of *Hawa* was “Family Law: Stories from the Courts”.

I next visited Hesna Makdashi, the person behind the first Arab Women's Book Fair (held annually since November 1995) and the editor and publisher of *Nour*, the woman's literary journal – a promising new entry into the field of women's writing and writing about women's issues. “I saw a gap between what women were actually doing and

¹⁹ Throughout my interviews with women politicians, lawyers, activists and intellectuals, I focused most of my questions on the need to reform Personal Status Law. All agreed that this was an absolute necessity.

writing, and what was being made available to the public here in Egypt. So I launched *Nour*.”

“The Personal Status Law reforms have become the subject of stormy Parliamentary debate. Many people thought it would pass; many people thought it would not pass. What was so special about the new Personal Status Law? It gave women the right to take matters into their own hands,” Makdashi said. “Basically, it revolutionized the balance of power in Egyptian marriages.”

Hala Shakrallah, a Copt and one of the founding members of the New Women Center for Research and Study, characterized her organization as a ten-year old feminist group. She said her group was “working to establish what I like to call a third way of feminism, not the Western dominant view of us as the other” nor “the Islamist view that all must proceed from Muslim religious doctrine”, but one “which we forge ourselves from our own traditions, yes, and the demands of our new modern lives.”

“Our group is part of the movement which refuses to recognize religious law as divine, and in changing,” she said. “That’s why the current debate about the Personal Status Law is important to us.” She added “the Personal Status Law reform is definitely a feminist issue. It’s not new at all. It’s an ongoing debate that has preoccupied generations of women before us.”

Aida Seif Al-Dawla, who worked with the Cairo Committee on Human Rights, wrote “A Feminist Perspective on the Debate on Personal Status Law Reform.” She concluded that “the Personal Status Law is the basis of the political power struggle between men and women in our society and it needs to be changed.”

Laila Al-Hamamsy, former director of the Social Research Center at the American University in Cairo, with a Ph.D. in anthropology from Cornell University, said that “although the debate on Personal Status Law reform is an old one dating back to Huda Shaarawi, it has recently been reinvented by feminists who are shrouding their arguments in the language of Islam and Islamic *fiqh*.”

In my meetings with Farakhanda Hassan, of the National Democratic Party, and Laila Al-Shall, of the Tajammu’ Party, I was told that eighty seven women, the greatest number in Egyptian history, filed for candidacy in the 1995 elections. “What is interesting,” said Hassan, “is that many of the women ran as independents, not as nominees from a political party.” Only ten emerged victorious after the long and stormy campaign. The public outcry was so great that the government scheduled a runoff, and in that contest women fared even worse. Just eight women were finally elected. Today, seven women are serving in Parliament. Al-Shall confirmed that, surprisingly, not all of the sixty women who ran for Parliament for a five-year term in 2000 supported amending the Personal Status Law.

For the most part, secular women's activists and scholars such as Dr. Samira Khedr, professor of sociology at Ein Shams University welcomed the amendments proposed by the new Personal Status Law. "This law corrects the injustice that women have suffered in the court system and women have been asking for their rights for decades and haven't been able to make progress in divorce laws. But now we have proof through *Sunna* and *Hadith* that these amendments are sanctioned by Islam," said Khedr. (Al-Wafd January 24, 2000)

In their views of the new law, most secular women's activists chose to steer away from entanglement in religious interpretation and discourse, preferring to use the rights discourse to justify their arguments for the revised Personal Status Law. For example, Dr. Camilia Shukry, expert in women and development issues, explained "the law doesn't give women any new rights. It simply alleviates the injustices suffered by wives. Marriage should be based on equality and reciprocity and the new law returns equilibrium and equality to marital relationships." She added, "*khulu*, which is creating so much controversy, was a practice existing since the days of the prophet and we aren't the first to apply this clause." (Al-Wafd January 24, 2000)

Most secular women's activists seemed to agree that the reform introduced by the Personal Status Law of 2000 were long overdue. Dr. Nagwa Rashad, Professor of Sociology, contended "*khulu* is not a revolutionary concept. It is simply another form and cause of divorce, that is divorce in the event that a wife can no longer stand living with her husband. So where's the harm in that? The wife will win her freedom and the

husband won't lose because he will get back all the material he had given her." (Al-Wafd January 24, 2000)

Along the same lines, Nazli Sherbiny, lawyer, explained "*khulu* is a merciful solution to women and saves them from prolonged court procedures where she has to provide sufficient proof to win a divorce. This can take many years." (Al-Wafd January 25, 2000)

Summarizing popular secular women's sentiments, Awatef Waly, member of Wafd Party and President of the Friends of the People Charity Organization, asserted, "women should be granted equal rights and what else has the new draft Personal Status Law given women other than her natural rights." (Al-Wafd January 24, 2000)

IN SUMMARY

Over the past century, women's movements in Egypt have taken on different and, at times conflicting, guises, campaigning under different banners and ideologies. Although this may be interpreted by some skeptics as a sign of disunity and lack of organization, new social movement theory points to a very different explanation. In fact the ever-changing war cries of the women's movements (whether they be Western secular, Islamist, radical, etc) can be better understood as an effort to gain popularity, mobilize public opinion, and stay afloat at times of social change. Even though the Egyptian women's movements are continuously shifting their strategies, the heart of their campaign continues to be reform of the Personal Status Law. At different times that has meant resorting to different strategies and appropriating different ideologies. Pushing for

women's rights from within the framework of Islam, or Islamist feminism as it is sometimes called, is only the most recent in a long series of shifting frames – as defined by social movement theorists, such as Mayer Zald, Sidney Tarrow, Doug McAdam, David Snow and John McCarthy. (Morris and Mueller 1992)

The examination of shifting frames is vital to the overall project of finding a strategy that is effective in delivering legal reform of oppressive laws to women. The recent spate of focus on the media both documents and highlights this characteristic function of frames (Morris and Mueller 1992). Collective action frames, like those of the women's movements in Egypt, not only perform this focusing and punctuating role; they also function simultaneously as modes of attribution and articulation. According to David Snow, framing activity — as I have done in the above chapters — and the resultant ideational webs that some movements spin or that emerge from the coalescence of collective action can also be crucial to the emergence and course of a cycle of protest. (Morris and Mueller 1992)

The goal of the Islamist groups in Egypt is to give an expanded cultural representation of the Islamic *umma* in the operation of political and legal system. Women have a role to play in making this cultural-political project a success. They will become symbols of cultural difference (through their Islamic mode of dress and code of conduct) and the exercise of full and universal political rights to vote and run for office.

The secularists, on the other hand, argue that in a civil society, the role of religion should be restricted to the spiritual domain, and that the rise of an Islamic state will mean the end of right to self determination and equal economic and political rights enjoyed by all citizens, regardless of political, religious, ethnic denomination. Introduction of religious and gender divisions in political and economic institutions by an Islamic state will undermine modern (nonreligious and nongendered) citizenship rights.

It is against this backdrop that we see the emergence of the Muslim feminists, whose aim is to show that the discourse of equality between men and women is valid within Islam. This relatively new strain of feminists try to establish a middle ground between interpretation of socio-political and cultural realities according to Islam and the more secular human rights discourse. According to these feminists, a feminism that doesn't justify itself through Islam is a self-defeating project that is bound to be rejected by the rest of society. Unlike the more radical Islamists (Jame'at Al Islamiyah), Muslim feminists are willing to contextualize religious texts, such as the Quran, and sharia opening the possibility for textual reinterpretation – in a way that is more favorable to women.

It is not surprising that, despite the embeddedness in Islam, these feminists are perceived by the religious conservatives as a threat to traditional values and its power base. Therefore, they are denied political support from Al Azhar and its proxies as well as Islamist thinkers who by virtue of their gender and positions of authority play an

influential role in the reinterpretation of religious texts, a right that is denied Muslim feminists. The state —whose ambiguous role regarding women makes women's task much more complicated — is equally unsupportive.

In the ongoing power struggle between the competing political groups (Islamist, secularists, etc), the current regime has chosen to selectively appropriate some of the discourse on women (at times that of radical Islamists which propagates deligitimization of women) while maintaining silence on others.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER NINE:
The Discourse on Personal Status Law in the Informal
Public Sphere**

Chapter 9 —the Discourse on Personal Status Law in the Informal Public Sphere

Since the publication of Jurgen Habermas' *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* in 1962 — and its subsequent translation into English in 1989 — historians have renewed their interest in the role of public and private communications as an important source of information about how public opinion is expressed in a burgeoning public sphere. Briefly defined, the public sphere was the intellectual space where private individuals, making use of Enlightenment reason, made personal decisions on public affairs. In other words, the emergent public sphere marked the beginning of participatory politics. (Calhoun 1992; Habermas 1989; Meehan 1995)

It is important to note that Habermas' public sphere is far too limited in scope for he claimed that the basis for growth was bourgeois and secular in nature. The activities of the Jansenists, however, demonstrate a public sphere that was religious in nature — where faith mattered more than reason — well into the 18th and even the 19th century.¹ Moreover, in the past decade social and cultural historians have started unearthing the beginnings of informal political activity by seeking the roots of the public sphere.

¹ A group who became known as Jansenists ran into conflict with the Pope, members of the Jesuit order in France, and ultimately with the King of France. The theological position known as Jansenism was probably the single most divisive issue within the Roman Catholic church between the Protestant Reformation and the French Revolution. The doctrine took its name from the Flemish theologian and bishop of Ypres, Cornelius Jansen (1585 - 1638), who summarized his ideas on Grace and free will in his posthumously published treatise, the *Augustinus* (1640). Relying on the strictest possible interpretation of one aspect of Saint Augustine's philosophy, Jansen argued in favor of absolute Predestination, in which humans are perceived as incapable of doing good without God's unsolicited grace and only a chosen few are believed to receive Salvation. In this respect, the doctrine closely resembled Calvinism, although the Jansenists always vigorously proclaimed their attachment to Roman Catholicism. Almost from the beginning, the Jansenists aroused the hostility both of the Jesuits, who opposed the theology and moral teachings of the group, and of the French royal government, who associated the Jansenists with the opposition "Devout party" and with the rebellions of the Fronde (1648 - 53).

Following in the footsteps of its chief theoretician, Habermas, they have looked at a range of associational life. From the salons of Paris and coffeehouses of London to the religious discussion groups and free-time clubs of the 17th century Dutch Republic to the reshaping of family life in communities across the Middle East, they have sought to discover when and how the public came to have influence within the greater society. Women historians and feminists have joined in this endeavour, often concluding that women were largely excluded from many aspects of the public sphere. Hence the importance of the informal public sphere.

Having looked at the religious and intellectual communities through various modes of media in Chapter 5, 6, 7 and 8, I am at this point interested in understanding how and to what extent women participate in the informal public sphere and what influence they had in their communities and family life as a result of that participation. The aim here is to push beyond the drawing rooms of organized women activists, parliamentary sessions of politicians, and publishing houses of the media to reach into the lives of grassroots women. In this chapter I also examine the effects of the law on Egyptian women and its implementation since it passed in January 2000. I am specifically interested in the application of the *khulu* clause.

Indeed, I have tried to capture the effects of the Personal Status Law reform on a personal note — through the eyes of common women. In the following sections, I shall explore both the individual experiences of grassroots women and their view of the discourse surrounding Personal Status Law reform. On the basis of my interviews with 20 women,

it was possible to detect different formative experiences that have influenced their outlooks on the pros and cons of the new Personal Status Law.

As explained in Chapter 2, I chose to limit my interviews to twenty women that I had deliberately chosen to formulate a comprehensive sample of grassroots women in *shaabi* neighborhoods. (See Chapter 2 for definition of grassroots women) My sample was contingent on various variables, including age, marital status, years of marriage, profession and level of education. Their marital status was particularly important as I am seeking women's personal perceptions and experiences with regards to legislation on marriage and divorce and its effect on their lives. Consequently, divorcees made up 25 percent of the interviewees and women filing for divorce in court to made up another 25 percent. Although these women are not representative samples of all the different groups that make up the lower middle class, they do represent a significant portion of the lower and lower middle class.

Grassroots Women and the Debate on Personal Status Law Reform

It became quite clear from my interviews that the women most in favor of the new Personal Status Law were those who had experienced the long and arduous process of divorce in Egypt or knew someone who had gone through the draining procedures of divorce courts. Meanwhile, married women ranged from those who were mildly critical of the new law to those who rejected it altogether. It seemed that their main objections stemmed from the fact that — as they claim — the law strips the husband of his power altogether. What is most interesting is that both the women who opposed and those who

advocated the new law used Islamic text to justify their stance, unconsciously adopting the new Islamist and Muslim feminist strategy that was taking over contemporary feminist discourse in Egypt.

Divorced Women:

My first informant, Manal, is different from the other women whom I interviewed in that she has always come from the Cairo suburb of Sakanat Maadi and did not move there from a village or town. Manal had at one time wanted to continue her studies beyond thanawiyah amma but her parents pressured her into marriage. She seems somewhat bitter that she was not allowed to pursue her education. When asked about her view of the new law, Manal, a 35-year-old factory worker and divorced mother of three, drew on her own experience with divorce. “The new law puts the Egyptian women at ease and protects the position of women in the family because the man usually becomes tough and mean with his wife especially when his wife comes from a higher social class. I support the *khulu* because a wife won’t go to court to demand divorce unless a continuation in her marriage is impossible. And as a result if she doesn’t get her freedom, then she has no choice except to kill him and get her revenge from him. Because of this, *khulu* has solved many problems of violence that may occur between couples,” said Manal. After I finished my tea with her and was getting ready to leave, Manal added, “the law must also abolish *bayt al-ta’a* because how can a wife continue to live with a man whom she hates?”

My next visit was with Sayeda, a 40-year-old maid and divorced mother of four.

Sayeda's schooling was limited but she has learned much from some of the patrons she has worked for. She is still very much traditional, covering herself in black and darker colours and wearing the head-veil. However, her ideas are surprisingly modern and inspiring. She claims to have worked for a Tunisian feminist and learned a lot of relevant *Hadith* from her. Sayeda lamented that the law had not been enacted when she had sought her divorce. "*Khulu* is prescribed in religion. The proof of that is that when a woman went to the prophet (peace be upon him) to get a divorce from her husband because she hated him, the prophet asked her if she was willing to return his gifts." Sayeda quickly added, "But of course reconciliation or divorce settlements outside the courts is better than *khulu* because it leaves a cordial relationship between the couple after the divorce. If the wife feels that this separation is necessary and better for her and her children, then *khulu* in this case is beneficial."

One of the most interesting informants was Zaynab G., a 47-year-old seamstress and divorced mother of four. Zaynab did complete her *thanawiyah amma* (high school diploma) but was also schooled early on in islamic law and influenced by her rather pious father and religious uncles. Her father moved to Cairo from Assiut, a city known for its deep religious convictions often bordering on extremism. She believes that a woman's role is to obey her husband but also supports divorce if the marriage is extremely abusive. It seemed that she had suffered domestic violence. She is veiled from head to toe and two of her daughters are also veiled at a very early age. Zaynab is more cautious in her assessment of the new law. "*Khulu* can be used incorrectly or abused in the event of the

smallest marital problem or argument. Its helpful in the even that a wife is suffering in a marriage and she has no other choice except divorce,” said Zaynab.

Fatma, on the other hand, a 48-year-old teacher and divorced mother of two, supports the new law. “It is good and will improve women’s plight in marriage and her relationship with her husband. It is important that it comply with principles of *Sharia* and I ask of each wife to think twice before she resorts to *khulu* so that she doesn’t fall into the pitfall of destroying her family.” Fatma represents the typical modernizing Egyptian woman who is still very much in touch with her traditions and religious norms. She met her husband while they were both teaching in Balah, a town on the north coast of Egypt. They had a typical marriage, until harsh economic realities drove a wedge between them. They divorced after 11 years and 2 children. She is not bitter but prides herself on being a pragmatist.

Divorcing Women:

I was particularly interested in the views of women who were currently entangled in a divorce. From my interviews, it became apparent that these were the women who had the most to gain out of the new amendments. It was clear that they were among the loudest advocates of the new law.

Azza, a 31-year-old mother of one and homemaker, entangled in a lengthy divorce, perceived the new law as the solution to many women’s problems. Azza’s marriage was rocky from the beginning. She confided in me that she had known her husband before

they had gotten married and that he seemed to always sway away from her. She loved him but could not trust him as he spent too much time outside the home. On one such outing they had a fight at which point he struck her. She left for her father's home and is in the process of divorcing. Her husband's whereabouts are unknown and it seems he does not want child custody. According to Azza, "every law has its pros and cons. But this law gives the Egyptian woman her rights. And what we need now that it is passed is to educate women and raise awareness among them about their rights and options under the new law. Especially because most women don't know a thing about the law (new or old) and this is the biggest proof of the good intentions of women. The woman is always the victimized party in any Personal Status case. The aim of this new PSL is to protect women from the brutality of men and I think the law will protect the family as a whole as well. The *khulu* is undoubtedly Islamic," she said.

Fayza was one of the informants I particularly enjoyed visiting. Even after conducting my interviews, I would continue to visit her for afternoon tea. Fayza differs from most of the informants I had interviewed. She only managed a high school degree, but had also been ambitious and wanted more. She got married at the age of 19 on her mother's insistence and got pregnant almost immediately. She hopes to find some way of continuing her education once her divorce is finalized. She hopes to go to computer training school. Fayza, a 31-year-old divorcing mother of one, pointed out that this was a God-given right for women. "Concerning the *khulu*, the prophet prescribed it and Islam ordained it. *Khulu* is a very just concept because as long as a wife wants a divorce, then she should have the

right to return her dowry and be granted one and win her freedom. This is her right,” explained Fayza.

Another informant with whom I developed a close bond was Mariam, a 37-year-old secretary, who is in the process of divorcing, and mother of two. Mariam declared the new law as long overdue. “This law is a victory for women and it will allow women to live without the constant fear that her plight lies solely in her husband’s hands,” she said. Mariam wanted to divorce almost immediately after marriage when she realised that the arrangements the two respective families had reached were not suitable for her. However, she did not feel she would have any support, and, like most Egyptian women before the new century, she felt she should try to cope and tolerate her situation. The new PSL changes emboldened her and thanks to the fact that her husband is somewhat educated (he has successfully finished secondary school) and a humble pious man, they are going through an amicable divorce.

Married women:

Most married women I met in the *shaabi* neighborhoods were critical of the new law — although some more than others. Their views of the law was largely determined by their relationship with their husbands. The more problematic or unequal — and at times abusive — their relationship with their husband, the more likely they were to advocate the new amendments. Some women were simply astonished by the public outcry generated by the new law.

Some of the informants projected a blasé attitude toward the Personal Status Law debates altogether. Noha, a 30-year-old mother of two, works as a janitor in one of the malls in the suburban neighborhood of Maadi. She receives relatively good remuneration and her husband's job as a taxi driver has meant that they have not fallen on hard times. While they remain a low-income family, from her attitudes towards marriage, they seem rather happy. She could not comment much on PSL as she never saw any reason to contemplate leaving her husband or divorcing him. None of her sisters have been divorced either. She has been married for 7 years, since the age of 16. She was perplexed by the hullabaloo surrounding the new legislation. To her, it seemed clear that, "the new law is designed for women in distress because if a woman is happy in her marriage then why would she think of disrupting of her life even if she has the right to do so?"

Zaynab A., a 32-year-old mother of six, was less enthusiastic in her assessment of the new law. "I think *khulu* will increase the divorce rates because it will encourage women who can't handle responsibility of marriage to simply walk away," she said. Taking a closer look at her family life explains her attitude toward the reforms. Zaynab is a cheerful woman, whose laugh is as contagious as it is endearing. She occasionally partakes in her husband's chores as custodian of the building where they work. The building basement, originally built as a garage, was left for Zaynab and her family to make a home of. The building owners generously left that area for them. Consequently, Zaynab and her husband never faced the hardships of finding living accommodation. They are both relatively happy and she swears he has never raised his voice at her or

raised his hand in anger on her. They both originally come from deep within the Egyptian countryside. Her husband, Ahmed, is 34.

Khadija, a 40-year-old government employee and mother of three, believed that the new law was not as revolutionary as the media has portrayed it to be. “The normal conclusion to marital discord is for the wife to return all the gifts the husband had given her and then to obtain a divorce. It is inevitable that she forfeits her financial rights for the sake of freedom,” she explained.

Magda, a 43-year-old homemaker and mother of four, agreed. “I don’t find the *khulu* strange or irrational. When marital life becomes impossible between a couple, then the only solution is separation. And this is settled outside the court system. And in normal circumstances, the couple reach an agreement whereby the wife returns everything the husband has given her in return for a divorce. And this is beneficial because it establishes respect between the couple even after separation and divorce. And in the end, every Egyptian woman knows that obeying her husband is a duty which we learned from our religion and traditions,” she explained. “And the new law has to address and resolve the issue of in absentia divorce, which happens when a husband divorces his wife without her knowledge or approval and she finds out months later. This is a constant fear for every Egyptian wife and it makes women live in constant fear and suspicion, especially if she suspects that her husband has married another without her knowledge,” she pointed out.

Salwa, a 30-year-old homemaker and mother of four was more critical in her appraisal of the law. Salwa is from the typical and traditional Egyptian family structure where the wife is taught to bear through all the difficulties. Her mother had instructed her to be supportive of her husband through the rough times, and any difficulties the two may face is attributed to economic difficulties. She would not describe the nature of her relationship with her husband; she would only answer with praises to Allah (*alhamdulillah*) when asked. “*Khulu* is wrong because it leaves the husband without a personality and respect in his own home , especially since the wife will now know that she can leave her husband at any time and some women will abuse this right and for this reason I am against the law,” she explained.

Mervat, a 31-year-old supermarket cashier and mother of two, disagrees with the new legislative changes altogether. Mervat’s father served in the Egyptian army in 1973 and was killed in that war. As a result, she grew up with a deep admiration for the man she never knew (he was killed when she was less than a year old). Her mother worked as a typist at a government-run company and it was up to her older brothers to help raise her and her sisters. Consequently, she believes that men have huge responsibilities on their shoulders and that it is a woman’s role to make a man’s life as easy and flowing as possible. She has a relatively stable marriage as she is married to her cousin. Marriage to cousins makes divorce a highly unlikely option. “Where’s the respect that men are entitled to? I don’t agree that husbands and wives should be equals. In the end we are Easterners and Muslims and men must be heads of households and they should have the last word. The draft law strips them of this God-given right, “ she scolded.

Some of the women seemed outright antagonistic toward the government for allowing such a law to pass. Heba, a 30-year-old homemaker and mother of four, seemed to have serious reservations about PSL and the role religion played in it. She also seemed to have misread Quranic Sharia and Hadith on marriage, mistakenly believing that her right to divorce was a bureaucratic addition to Islamic law. It was difficult to talk to Heba because she was adamant about her beliefs and persisted in quoting Hadiths and traditions no one had heard about. She rejects empowering women with distinctive rights. Heba believes, that *Sharia* should be the basis of any new law, and with the amendments of January 2000, the new Personal Status Law has become un-Islamic.

“Why do they want to strip the man of his right of repudiation and his position as keeper of women [through this new law] which is his rightful position according to the Quran and *Sunna*? It ails me that the government is imposing its will and meddling in such private matters between husbands and wives,” said Heba. “It must be based on *Sharia* and can’t contravene it. What type of *Sharia* is it that cancels men’s power over women and destroys homes and families and the relationship between husband and wife,” she added.

Unaware that the article granting wives the right to travel without their husbands’ approval had been withdrawn from the final draft of the new law, Heba appeared to be infuriated this particular amendment. “It’s great to have liberalization of women but not to the degree that she can just open her door and with her luggage in her hand, hop on a plane and leave abroad without her husband’s approval. Haven’t they heard the story

about the prophet? There was a woman who didn't leave her home neither when her father was ill, nor when he was dying, not when he was being buried. And in the end the prophet sent her a message telling her that her father had entered heaven as a result of her husband's approval of her because she had not left her home."

In a mocking tone, she said, "You [the government] use *hadith* to introduce *khulu* and for the travel clause you ignore *hadith* that clearly forbids wives to leave the house let alone travel without her husband's permission. Besides, the story of Thabet Ibn Qays is unique and singular incident that shouldn't be generalized. We shouldn't build upon it laws affecting all Muslim women."

Some women I interviewed were so caught up in the daily struggle for survival that the law appeared to be the least of their concerns. For example, Hosneya, a 46-year-old vegetable vendor and mother of five, seemed hesitant when I asked her about the new Personal Status Law. After a lengthy discussion, I learned that she was not very clear on the subject as a whole. In fact, she was not even aware that a new law on Personal Status had passed.

"I know nothing of this new law. All I know is that the government will allow the woman to divorce herself and in return she must give money to her husband. And poor women like me, we beg our husbands not to divorce us. So how does it make sense that I pay him money to divorce me. This is irrational and what the

government is doing is wrong and unjust. It is better for us to stay married and under the protection of our husbands than to create discord for ourselves,” said Hosneya.

TWO YEARS LATER: IMPLEMENTATION OF PERSONAL STATUS LAW

2000

It has been two years since procedural personal status law in Egypt was radically altered. The new law was supposed to speed up legal procedures in matters of divorce, accept appeals for divorce from *urfi* marriage (marriage without an official contract) and establish a family court.

For most people, though, the law will forever be known as the *khulu* divorce law. It took the unprecedented step of allowing women to divorce unilaterally, on the condition that they forego almost all financial rights — such as alimony and dowry.

In regular divorce cases, women have to prove that they have been exposed to harm or hardship and the judge may reject or accept the application. The *khulu* procedure offers a very different terrain indeed. Under *khulu*, a woman does not have to give a reason for seeking a divorce. Her hatred for her husband is enough.

Before the law was passed, many sociologists, criminologists, religious and political figures and prominent writers warned that granting women the right to *khulu* would lead to the complete breakdown and disintegration of the Egyptian family. The outcome, they

argued, would be social instability. Giving women the right to *khulu* would emasculate men.

Women, the argument went, would rush to *khulu* at the first sign of trouble (being the highly emotional, irrational beings that they are) thus breaking up their own homes, later to regret it miserably. Families would be fragmented. Women would be enticed by rich businessmen who would offer to buy them out of their marriages.

The number of unmarried men and women in society was predicted to sky-rocket, with men being too scared to marry women empowered to exercise the right to *khulu* and destroy their households in a minute. As for the children, the critics lamented, what would be their fate after growing up in broken homes because their mothers had chosen to opt out? They would no doubt become criminals and thugs, the experts predicted.

The number of articles warning against the passing of the *khulu* law, in the name of the protection of the Egyptian family, were countless. Massive campaigns were launched by opposition papers such as the liberal *Al-Wafd*, the Nasserite *Al-Arabi* and Islamist *Al-Shaab*.

But the official newspapers also spoke in the name of the Egyptian family when they professed that the new law would render justice, stability and harmony to Egyptian households without affecting man's God-given rights one iota.

For the law to change things, however, it has to be fully implemented. So far, that hasn't happened. When I set out to interview women who have applied for *khulu*, I soon discovered that finding them would be no easy task. As one social worker pointed out, it is one thing for a woman to say she is applying for divorce and quite another for her to say that she is applying for *khulu*. The image of a woman who files for *khulu* portrayed in the newspapers — selfish, greedy, disrespectful to her husband and a bad mother — hardly helps women out in this department.

So the anti-*khulu* campaigners' prediction that thousands, or perhaps millions, of women would rush to divorce their husbands has proven to be hollow. But there are still some women who applied for *khulu*.

According to a story printed in *Cairo Times* (March 15, 2001) Amany, 33, is one of them. Amany's story as told by *Cairo Times* is a gruesome eye-opener that highlights the inadequacies and limitations of the Personal Status Law 2000. Amany is a mother of two children: 10-year-old Mohamed, and two-and-a-half-year-old Ahmed. She applied for *khulu* in March 2001, but the court has yet to issue a ruling. Her case has been postponed more than once, because her husband repeatedly failed to turn up for reconciliation sessions — which are required by the law before *khulu* can be granted — and because neither he nor his lawyer appeared for one of the court sessions.

Amany married her husband Mohamed 11 years ago, but, she confides, they have been living separately for almost three quarters of their marriage. When they first got married,

she went to live with her in-laws, and the problems started. Two and a half years later, his father asked them to move out. Amany went back to her parents' house, and he stayed at his family home until he was able to save up enough money for a place of his own.

The fighting, however, did not stop in the new home. Amany said she got sick and tired of his threatening to divorce her every time they fought or squabbled, and of his verbal abuse and the fact that he never spent any money on the family. She left for her family's house despite being pregnant.

They later made amends but the trouble soon started again, when she insisted on enrolling her son at school herself. He thought it was a completely unnecessary thing to do. "It was really the idea that I would be leaving the house that he didn't like; he was the jealous type." Her decision to join a household management school herself, and to take up sewing classes only made things worse. It meant being out of the house even more. After she got pregnant with her second child, more fights ensued and she found herself back at her family's house where she has been living for the past two and a half years.

When she applied for *khulu*, he sent his sister to ask for reconciliation. Amany consented and temporarily stopped the procedures. "Once he was assured that I was not pursuing a divorce any longer, he called up to say that he didn't want me anymore. He neither wanted me in his home, nor did he want to set me free. It was also very hard on him to think that a woman could divorce him." Amany then went back to the procedures applying for *khulu*.

She had hoped that *khulu* would mean independence, but the reality has been far from the dream. Amany faces another battle at home now, more so this time because she returned with the status of divorcee-to-be. “I am suffocating at my parents home. They watch my every move, because there is nothing worse than being a divorced woman.”

Jobless, she does not know how she is going to support herself and her sons after the divorce. The children’s alimony is unlikely to be more than LE100 a month. “I know I gave up everything when I chose *khulu*, but I know that if I had sought a divorce the regular way it might take years and years on end.”

“You must understand that it is not easy for a woman to ask for *khulu*, no woman wants to destroy her home with her own two hands, but you reach a point where you can’t bear it.”

Zaynab (not her real name), who is aged 29, applied for *khulu* in April 2000 and was divorced one year later. She is still awaiting the alimony for her son. During the year that has passed, her parents have been supporting her and her six- year-old child, Islam.

“After I applied for *khulu*,” she says, “we had to go to the reconciliation session at Al-Azhar. The shaykh there urged me not to file a suit. He told me that I would lose everything, including the *ayma* (list of wife-owned household furniture which the husband signs before marriage). I thought I would not go on if I were to lose that. Later,

when I discovered that what he told me was not true, I proceeded with the paperwork. Half-way through, I found out that my husband had sold my furniture.”

Zaynab said she left her husband because he was very miserly and did not spend any money on the household. She has since been living with her parents, but given that they are of modest means, she is very anxious to receive her child’s alimony, which has yet to arrive. “It is a lot to give up for my freedom, and that is the worst thing about *khulu*,” she sighed.

Ghada Nabil, a lawyer at the Arab Office for Law, explained that according to the new procedural personal status law, women were entitled to immediate alimony payments for their children, which are meant to be dispensed through Bank Nasser. The bank is supposed to pay the former wife then collect the money from the former husband.²

“So far,” explained Nabil, “this has not happened. Bank Nasser is not paying up child alimony and women find themselves stuck.” The whole idea behind the scheme was to ensure that *khulu* would not simply be a right enjoyed only by women who could afford to support themselves and their children. Nabil confided that there were times when she herself discouraged women from applying for *khulu* if they had no means to provide for their children.

Lack of alimony payments, however, is not the only broken promise. Nabil pointed out that “according to the law, any *khulu* application should be ruled on by the courts within

a period not exceeding six months. But realistically speaking, in all the cases I have dealt with, it takes no less than a year.”

She attributes this delay to a strong reluctance to the application of the law on the part of judges. “I think that the majority of judges do not personally believe in *khulu*. They don’t think it is Islamic and they believe that just because it so happened that once in the Prophet’s lifetime a woman was granted *khulu*, there is no reason that it should be made into a general right, nor should it be legislated for.”

One of the main official strategies in the campaign to win public opinion over to the new law has been to emphasise the Islamic basis of *khulu*. Politicians, religious scholars and even the Shaykh of Al-Azhar himself have all reiterated that the right to *khulu* is enshrined in Islam, following the example of the Prophet Mohamed himself. According to the *hadith*, the Prophet was once approached by a woman, Thabet Ibn Qays’s wife who said that while she found nothing wrong with her husband, she hated him and feared that she would not be able to live with him in compliance with God’s *hadiths*. The Prophet asked her to return the garden which her husband had given to her, and said that she would be granted *khulu*.

But the strategy to win full religious legitimacy seems to have somehow backfired.

Different people have interpreted the *hadith* in different ways, depending on their social views on *khulu*.

² Excerpts from an interview conducted April 1, 2002.

“The resistance of the judges to implement the law really complicates matters for us, especially so because the law was not followed with an explanatory document clarifying the specific details of how it should be applied,” Nabil said. Sometimes, she argued, the judge does not actually apply the law as it is supposed to be. “For example, the law stipulates that a wife is to return to her husband the *mokadam sadak* (amount given to the wife prior to marriage) according to its value stipulated in the marriage contract. In one court session, the husband objected and said the amount in the contract was not the amount he really paid. According to what the law says, the judge is obliged to abide by the amount that is written, yet he did not, but referred them to a committee to investigate the matter, which only meant prolonging the case.” The general atmosphere in courts was against the implementation of the law, protested Nabil, adding that she still heard lawyers around her talking about *khulu* leading to the “extinction of men.”

A one-year survey was conducted by the Centre for Egyptian Women’s Legal Assistance (CEWLA) comparing the number of *khulu* appeals made with those that actually received a court ruling in six governorates. The survey covers the period from when the law was issued, at the beginning of March 2000, to the end of March 2001. The full findings of the survey will be released at a later date. The preliminary results, however, show that only a small proportion of the appeals made in court were ruled on in the space of one year.

In the governorate of Qena, for example, out of 85 appeals made for *khulu*, not a single case was ruled on. Courts in other governorates did not do much better. In Sohag, out of

223 appeals for *khulu*, only 2.3 per cent received a ruling, while in Fayoum, out of 131 appeals made, only 1.5 per cent received a ruling. In the Giza governorate, out of 1,199 appeals for *khulu*, 6.9 per cent received a ruling. As for Cairo governorate, which received the largest number of *khulu* appeals, the percentage did not exceed 14 per cent.

Azza Suleiman, a lawyer and manager of CEWLA, conceded that simply the fact that applications had been filed in court showed that women were looking for any way out, even if it came at a high price. More conspicuous are the discrepancies and variations in the way different courts and judges have applied the law.

“As a woman and lawyer who believed that *khulu* may be one way out for women, I am disappointed at the way the law is being applied,” she said. “For example, in one court, the judge ruled for the woman to return the *moakhar sadak* (the amount to be paid to the woman in case of divorce or in case of the death of her husband). Yet according to the law, she is not supposed to repay it, only forego her right to it. But in another court, another judge issued an ideal ruling referring to her right as a woman, and was very fair in his ruling.”

As for the courts in the Upper Egyptian governorates of Qena and Sohag, Suleiman explained, “The judge would not rule in favour of *khulu* for the sake of children. What would people say about children whose mother applied for *khulu*?” In this context, suggests Suleiman, women who apply for *khulu* are just as stigmatized just as women who are declared *nashez* (disobedient to their husbands). *Nashez* women are allowed to apply for divorce, but they are not entitled to any financial rights. “Most of the cases in

Sohag were switched from *khulu* to divorce although women were well aware that it would take three years or so,” Suleiman said.

For Suleiman, patriarchal values aside, a major problem is the lack of training given to judges on how to apply the new procedural law. “For example, in case of dispute on the amount of the alimony or deferred dowry, the wife is supposed to get her divorce and then if the husband objects to the amount given to him, he should take the matter to the civil court (*madani*). Yet this does not happen, the judge may postpone the court appeal a few times until the husband makes a decision.”

Furthermore, according to the law, two reconciliation sessions are to be held, and if they come to nothing, only then is a woman’s appeal for *khulu* is to be granted. This idea was based on a suggestion made by MPs in the People’s Assembly, who protested that attempts at reconciliation must be made, given that women were very impulsive and could apply for *khulu* only to regret it later.

In practice, suggests Suleiman, the two arbiters in these reconciliation sessions can sometimes be biased. “Rather than trying to resolve issues between the couple, they try and put pressure on the woman to drop the case,” she said.

Mona Zulficar, a member of the National Council for Women (a coalition of high-powered professionals, headed by First Lady Suzanne Mubarak, who collectively act as a watch dog for violations of women’s rights as prescribed by Islam) and a lawyer who helped formulate the procedural personal status law, admitted that there was a problem

associated with the lack of experience in applying the new procedures. “They confuse the difference between having arbiters in cases of women who are applying for a regular divorce and the cases of those applying for *khulu*,” she explained. “In the former, the arbiters have to check that a woman deserves to be divorced. In the latter, if the woman objects to going back, the case should not be postponed. The arbitration sessions should not take more than two months.”

The prolonged periods of waiting for appeals, suggested Zulficar, could also be attributed to lawyers taking longer to inform the husband of his wife’s appeal for *khulu*, especially if his address was not known, or if the husband appealed for a postponement. Sometimes the woman’s lawyer was inexperienced in the new procedures pertaining to application for *khulu*, she suggested.

Zulficar conceded that although some of the positive aspects of the law had already been applied, such as the shortening of the time for regular divorce cases, the most important aspect of the law, the provision of child alimony via Bank Nasser, had unfortunately not been implemented. “Initially, the government had allocated LE30 million for this purpose, which was supposed to be transferred from the Ministry of Social Affairs to the Bank. The problem is that now the government fears that such payments would be to no end.”

Frustrated and disillusioned, many female activists question whether the government is really serious about removing the legal forms of discrimination between men and women.

Like Suleiman, many argue that the government is averse to addressing the real sources of injustice, which are inherent in the actual personal status law, rather than simply the procedural law.

Judging by the level of social hostility and discontent in the People's Assembly and in the opposition newspapers three years ago when the procedural law was being discussed, it is not difficult to see why the government is cautious about touching the personal status law itself, which is the central bastion of the patriarchal system.

"We have a Personal Status Law dating back to 1929. Rather than addressing it in its entirety, the government chose to deal with one aspect of it, namely the procedural, while ignoring the rest. The whole law needs to be reformed in the light of the changing social values, the economic crisis and the problems associated with entitlements and custody," Suleiman argued.

Until that happens, it seems that poor women will have to weigh up the price they will have to pay for freedom very carefully.

IN SUMMARY

As an emerging public, women have introduced new topics and themes by focusing attention on women's problems and needs. This is increasingly true of the informal public sphere. By offering new interpretations of these issues and demanding reconceptualization and transformation of institutions, women's activism have provided

a whole new agenda for political discourse. By raising their voices as part of both formal public discourse as well as the informal public sphere, their aim was not only to increase women's self-consciousness, but also to challenge the implicit assumptions and understandings of the public. Indeed, cultural transformations in public opinion can shape and transform public institutions as well as the public's self-understanding. For this reason, it is of utmost importance that my research document the concerns and perceptions of social injustice and grievances held by women at the grassroots level.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

**CHAPTER TEN:
Conclusion**

Chapter 10 — Conclusion: The Power of Feminisms

In the following pages, I summarize the salient aspects of the power dynamics between the varying frames of the women's movement. It must be said that as a conclusion, it is quite a difficult chapter to write. For how can one conclude on issues that are still to this very moment relevant and ongoing dynamics? How does one sum up over 100 years of currently highly pertinent and very crucial activism toward Personal Status Law reform? Yet I have attempted to capture a moment in the midst of these power dynamics which are constantly shifting. The following section, therefore, maps out the theoretical basis of my analysis of the Egyptian women's movements and the shifting legal strategies adopted throughout the 20th century. Next, I summarize the different dynamics of feminisms, primarily in terms of their relevance to and effects on the power of Egyptian feminisms. I identify the main aspects of the different Egyptian feminisms surveyed herein. Then I argue for an Egyptian feminist politics of difference. And in the final section of this chapter I briefly present other possible avenues of research.

Over the past century, women's movements in the Middle East, and in Egypt in particular, have taken on different and, at times conflicting, guises, campaigning under different banners and ideologies. Although this may be interpreted by some skeptics as a sign of disunity and lack of organization, new social movement theory points to a very different explanation. In fact the ever-changing war cries of the women's movements (whether they be secular, Islamist, or Muslim) can be better understood as an effort to gain popularity, mobilize public opinion, and stay afloat at times of social change. At different times that has meant resorting to different strategies and appropriating different ideologies. Pushing for women's rights from within the framework of Islam is only the

most recent in a long series of shifting frames — as defined by social movement theorists. (Tarrow 1998; Morris and Mueller 1992; Snow and Benford 1986) Because Egypt has spearheaded most reform in the domain of gender relations and the status of women, I have used the evolution of the Egyptian women's movement's demand for Personal Status Law reform as a case study. In order to examine the metamorphosis of the Egyptian women's movement shifting legal strategies and how it came to adopt an Islamicized language, I have adopted social movement theory as the main theoretical framework that purports the explanation behind this evolution.

Many recent writers have tried to shift the focus on social movements from structural factors to the “framing” of collective action. Scholars of social movements began to focus on how movements embed concrete grievances within emotion-laden “frames” capable of convincing participants that their cause is just and important. (Snow and Benford, 1986) Partly blending with these insights was the influence of French post-structuralism, and especially the concept of “discourse” imported from the work of historian-philosopher Michel Foucault (1972, 1980).

This new emphasis on culture ripened into a new paradigm. This was reinforced by “identity” politics that had developed out of the 1960s — and especially by the women's, gay and lesbian, and minority rights movements.

Identity Politics and Gender Analysis

I found Georgina Waylen's *Gender in Third World Politics* particularly valuable in its examination of the interplay between identity politics and gender analysis (1996). This theme has been important in my examination of alternative legal strategies used by the Egyptian women's movement to combat oppressive laws, most significantly the Personal Status Law.

It is important to bear in mind that politics does not have the same impact on women as it does on men. The political process often changes gender relations, and the rising tide of Islamic extremism is a case in point. In the past, orthodox political science has been slow in incorporating a gendered perspective to its approach. (Silverberg 1990) Part of the reason is that high politics (wars, power politics, etc) focuses on areas usually dominated by men. Any study involving the analysis of gender must inevitably owe a great debt to feminism in all its guises.

Gender is a constitutive aspect of social relationships based on perceived differences between the sexes and manifested through laws and cultural norms. Gender is also a main way of signifying relations of power. Using Foucauldian notions of power, gender is involved in the way power is constructed. Foucault's 'politics of everyday life' lays the foundation for a politics of resistance. Foucault also argues that knowledge and the ability to construct knowledge leads to power to define subjects (Fraser 1989). Therefore, oppositional political activity — such as that adopted by Islamist and Muslim feminists — can aid in subverting dominant discourse in this case patriarchal or misogynistic discourse.

The current trend in gender discourse in the West is a movement away from the rights debate based on the argument that the rights discourse is the wrong platform for women striving for autonomy since the law itself is inherently biased. The legal system is set up by a patriarchal society and is thus faulty from its inception. Others believe that in some parts of the world, such as the Middle East, you need to start with the basics. Securing women their legal rights is an integral first step in the struggle for autonomy.

Some argue, however, that guaranteeing legal rights is not enough because women in the Middle East are held back by a lot more than male-biased laws. (Coomaraswamy 1992) The entire socio-economic framework of society puts women at a disadvantage. They are the illiterate, impoverished, suppressed sect of society. They are taught to assume submissive roles and stay behind the scenes. Women who are very career-oriented are often frowned upon since, according to popular belief, a women's fundamental role should be that of care-giver and home-maker. Centuries of tradition in a culture that represses women makes achievement of autonomy a far-fetched prospect for the gender in that part of the world.

Yet, since gender inequalities and gender identities are buried in and constituted by the state in the form of laws and public discourse, it is important to study the trends in recent legislation, especially since the Egyptian People's Assembly had passed a bill proposing progressive amendments to the Personal Status Law in 2000.

Although Middle Eastern women should continue to champion legal reform as a prominent vehicle of social change, I believe they should also adopt less formalized and perhaps new ideological approaches to combat everyday practices, strengthen their position and undermine the patriarchal system. (Hoodfar 1996) In fact, women are often oppressed by traditional and social practices founded on the misinterpretation and misuse of legal and religious codes, including the *Sharia*. Manipulation and re-examination of traditional and religious institutions can become an informal strategy, which when spread and widely accepted can eventually foster legal reform and reshape social perspectives. In fact, these informal strategies can become the main vehicle for women in the Middle East to resist patriarchy. Some of the most significant strides in guaranteeing a greater role for women have been achieved by the new wave of Islamist feminists who are using Islamic doctrine and ideology to breakdown oppressive practices and attitudes toward women.

Ordinarily legal reform is encouraged with the hope that it will bring change in attitude and social value systems. Informal strategies —through the revised Islamic framework which I have explored in this dissertation for example — aiming to reform traditional and legal practices are based on a reverse logic in which a change in attitude is hoped to precipitate legal reform. (Hoodfar 1996)

Feminisms — Together Yet Apart

The journey upon which I had embarked to explore the shifting strategies of the Egyptian women's movement toward legal reform, has taken me among Islamist men and women

activists, secular and Muslim women activists, a variety of laws and debates and different struggles for power and hegemony. I highlighted and analyzed the power struggles between the state, with its personalized nature, and Islamists in their diversity, through the perceptions of diverse Egyptian feminists. Above all, this has been a journey that has given prevalence to and emphasized diverse Egyptian feminisms and the shifting strategies they had adopted over time.

I have found the most frustrating aspect in the writing of this research to be the inability to bring out all the feminist voices. Ultimately, the women I bring out here are only a fraction of the many feminists for whom the struggles for women's rights are a defining aspect of their lives. And whose endeavors both daily and long-term, have shaped, and continue to shape, much of the dynamics of hegemonic power plays.

The most enriching aspect of this project has been meeting these women again and again in the text and renewing my knowledge of them and their discourses throughout. Above all, I am fortified by being able to identify the diversity of women's struggles, and to understand that feminisms are all the better for their differences. Both the researcher and activist aspects of me have gained in knowledge, insight and understanding. The journey of fieldwork and writing has also meant contrasting the different textual validities of representation and discourse respectively. What the different feminists have to say about Islamism, state and feminism was presented by situating and comparing their words.

By working with a postmodern definition of feminism which is based on cultural and historical specificities, as well as localization and pluri-vocality, this research has identified three main feminist streams in Egypt: secular, Islamist and Muslim. These different feminisms remain very much within the upper and middle classes, though the Islamist and Muslim streams have a potentially larger audience, owing to Islamist use of a hegemonic language of Islam, coupled with different forms of activism that Islamism itself advocates among all social and economic classes. The term feminism has functioned as an identification technique to map out all the women who acknowledge that women are oppressed by different means and in many ways, and who actively seek to rectify this injustice by diverse methods. Though they generally rarely referred to themselves as feminists — and some strongly opposed the term — it is important to highlight the feminist consciousness these different women represented. Within each stream diversity and contextual specificity are represented by the different articulations of opinions. Nevertheless, I also tried to generalize some of their aspects in order to analyze the larger power dynamics between Islamist thought, feminist activism and state laws.

At one end of the political spectrum is secular feminism represented by the Tajammu' Party and the New Woman Research Center (NWRC). Both call for total equality between the sexes, attempt to ground their ideas on women's rights outside religious frameworks and unanimously perceive Islamism as enemy Number One, and the state as already Islamist for all intents and purposes. As far as most secular feminists are concerned, their antagonism towards any discourse which involves 'Islam' is paralleled only by their intense dislike and suspicion of what they perceive as a hegemonic political

Islam. They see the solution, more or less, in terms of insisting that the state adopt secularist ideas which specifically avoid mixing politics with religion and where the latter ought to remain exclusively a private affair of individuals, which should not be mixed with politics at any state or other level. In their manner of rejecting any discourses of emancipation within religious frameworks, secular feminists are effectively risking both estrangement from, as well as the exclusion of, many contemporary Egyptian women activists. In that respect, secular feminists maintain a politics of Othering — where ‘the Other’ is the one who thinks differently vis- a-vis religion.

At the other end of the political spectrum are the Islamist feminists who are publicly represented to some extent by the Labor Party and independent activists such as Heba Ra’uf. Islamist feminists, like their male Islamist counterparts, frame their whole political and social agendas firmly within a framework of political Islam. Both Islamist men and women are cautious of losing each other’s support in their common political struggle. This has certain implications on the feminists’ ideas, i.e. emphasizing equity and compatibility, as opposed to calling for equality which would be potentially divisive. The disciplinary power of Islamists corresponds to Islamist feminists’ own strategies of exclusion of ‘Others’ and the demarcation of society between ‘us’ (Islamists) and ‘them’ (non-Islamists). Their perceptions of the state are directly opposed to those of the secularists and identical to those of their male colleagues. As far as they are concerned, the state oppresses all in society — men as well as women — precisely because of the lack of true Islamic laws, as a result of succumbing to dominant Western ideology. Women, according to Islamist feminists, are especially oppressed in this regard, because

Islamism's hegemonic power is being opposed by repressive state power. The latter has implications for the life-style being imposed on women (and men) which contravenes their natural dispositions and oppresses them through Western — and thus inauthentic — political, social and economic demands. In their manner of adopting the disciplinary techniques (of their male Islamist colleagues) of excluding those who argue for diversity of Islamic political and social practices, Islamist feminists risk alienating many potential recruits. Perceived as such, both Islamist and secular feminists adopt the politics of Othering, or the exclusion of 'the Other' from their discourses.

In between these two feminist streams are Muslim feminists. Their ideas are illustrated by the Nasserist political party and to some extent the Bint-Al-Ard group. These feminists perceive the state as a guilty bystander and sometimes knowing accomplice of general Islamist (not Islamist feminist) perceptions and allocations of gender roles. Muslim feminists, whilst sometimes advocating that religion is for God and politics is for people, effectively argue along lines which acknowledge the importance of Islam culturally and politically. They generally maintain that no argument for women's issues, placed outside Islam will gain popular support in a country in which the master narrative of Islam structures and influences the lives of people. Muslim feminists see the development of an Islamist (feminist) counter-discourse as essential, if the false power of Islamist hegemonic knowledge is to be challenged and alternative explanations of reality formulated. In that sense, Muslim feminist thought and agendas fall within the advocated Foucauldian-Gramscian paradigm against hegemonic truth and related power dynamics. Hence, I maintain that their role is the most crucial within the dynamic of state-

Islamisms-feminisms. Technically, Muslim feminists can bridge the ideological divide between feminists since by their very nature they combine various religious convictions coupled with an intent to shun extremism from either side. Muslim feminists can be either the outcasts or the trendsetters — depending on the politics they choose and the climate within which they function.

Furthermore, the strategies adopted by feminists therefore differ among the groups themselves, but also among individuals within the group. Those involved in political parties have tended to be less flexible in their ability to feature their discourse outside some form of Islamic framework — as the case of the Tajammu' indicates. The New Woman Research Center (NWRC), on the other hand, is comparatively less bothered to legitimize its arguments within an Islamic or religious framework. The reason for this discrepancy is directly related to the distance from actual state repressive power and its incumbent dominant discourse. Political parties — apart from the ruling NDP — are nevertheless in a predicament since they are 'permitted' by the government to be in the opposition. Such groups have comparatively less manoeuvrability in distancing themselves sufficiently from the hegemonic discourses and thus in creating their own.

The situation is equally valid for other (women's) NGOs registered under Law No. 32/1964 with the Ministry of Social Affairs. This is a significant aspect of state disciplinary power, which highlights the capacity of the state not only to control opposition, but to make sure that the same discourse it perpetuates, will dominate. I see a built-in destructive device in such disciplinary power techniques. For as long as the state

discourse on Islam remains reactive to Islamism, this characteristic will eventually dominate and typify the discourses of the state-allowed 'opposition' NGOs. Eventually, the only credible and significant discourse of opposition will be that of the Islamists — who have themselves historically introduced, developed and termed the discourse of political Islam. The state is fighting a losing battle on a terrain not its own, and through its repressive power forcing other women's groups — which are potential sites of alternative opposition discourse — to risk losing the battle along with it.

Whether hopeful or skeptical or alternately both, Egyptian feminists of all persuasions are actively involved in discussions on state laws affecting women, particularly the Personal Status Law. Most feminists agree that the current Personal Status Laws are oppressive, biased and need some form of change. In many cases secular and Muslim feminists distinguish between the letter of the law and its application, arguing for the necessity of more effective implementation. Islamist feminists see no need for civil laws in the first place and advocate the implementation of the *Sharia*. As state weapons, it can be argued that the laws affecting women have so far succeeded in acting as a form of disciplinary technique which depends on dichotomies of rational/emotional and credible/incredible. This latter form of institutionalized state power thus effectively excludes feminist counter-discourses as the 'unusual', incredible and irrational discourse of 'the Other'. Thus constituted, law has an affinity with power while at the same time being congruent with the disqualification of women's accounts and experiences. Feminists who wish to challenge the law, therefore, have to deconstruct the assumptions that rationality and

justice are male attributes. By so doing they are perforce challenging the nature and edifices of male power in the society as a whole.

This endeavor has yet to be attempted. Secular and Muslim feminists perceive the greatest problem to be women's ignorance of the laws themselves, and argue that these laws need amending. Islamist feminists call for them to be scrapped altogether in favor of another set of male-interpreted laws — the *Sharia*. By merely increasing awareness — and implicitly some form of acceptance — of existing laws, secular and Muslim feminists are remaining mired in the same androcentric argumentation. Secular feminists have managed to touch the tip of the iceberg as it were, by challenging the gender bias of the laws. On the whole, however, the tendency among secular and Muslim feminists is to demand amendments to the laws, as opposed to attempting to formulate alternatives to the masculine discursive character of state laws. Islamist feminists' proposed alternative of *Sharia* will fare no better.

Feminist Alliances and A Politics of Difference?

Political alliances with other feminists are necessary for feminists if they are to shift their power bases and empower themselves to counter- balance the diverse hegemonic influences. Many of the feminists interviewed echoed the need for such an alliance. In fact, feminism can mobilize individuals from diverse sites in the social field and thereby use difference as a resource. Here I would reinforce Audre Lorde's call for a "politics of difference" (Lorde 1984: 115). Lorde claims that it is not women's differences that separate them but rather their "refusal to recognize those differences, and to reexamine

the distortions which result from our misnaming them and their effects upon human behavior and expectation". Lorde suggests that feminists should devise ways of discovering and utilizing their differences as a source for creative change. Learning to live and struggle with many of the differences may be one of the keys to disarming the power of male norms which have all been internalized to varying degrees (1984:115)

Sawicki (1991:32) takes this further by arguing that although a politics of difference does not offer feminists a morality derived from a universal theory of oppression, it need not lapse into a form of pluralism in which anything goes. What Egyptian feminists can and need to do, I reiterate, is to develop theoretical analyses on the basis of which generalizations can be made. These would help to identify patterns in relations of power and thereby recognize the relative effectiveness or ineffectiveness, safety or danger of particular practices. The relative importance of male voices in the formulation of state laws and decisions is a practice that feminist analysis can trace and counter. Egyptian feminists could realize that whether secular or Islamist, looking at their different activism exclusively in light of victimization and/or false consciousness will not provide the necessary shifts in their strategies for power. On the contrary, by identifying the state as the prime mover in the power game, feminists may be able to find more common ground in their struggles than is currently the case.

A politics of difference is necessarily no blueprint. For in a feminist politics of difference, theory and moral judgements are geared to specific contexts, but it does require that categories (notably 'Islamism' and 'feminism') be clear and provisional. This is in order

to shed light on possible strategies and enable shifting coalitions between different feminisms. This would enable the fluidity of power bases and alliances. What is certain is that differences are ambiguous; they may be used either to divide or to enrich feminist politics. Sawicki elaborates that:

If we [feminists] are not the ones to give voice to them [differences], then history suggests that they will continue to be either misnamed and distorted, or simply reduced to silence. (1991: 32)

So far, differences have been used to divide Egyptian feminists, and thus to hold back the elaboration of feminist politics, an elaboration of which could extend feminisms beyond resistance and towards hegemony. The Islamist feminist from the women's committee in the Islamist Labor Party herself suggested areas where women from diverse political orientations can agree. Women's literacy and the encouragement of women to vote and become involved in the political processes, banning female circumcision, raising women's awareness of their rights are all priorities for feminists. Yet nowhere has there been a non-exclusivist attempt to bring these women together as common combatants for women's causes. For each is busily believing that 'the Other' is 'the enemy'. In fact, not only is this binarism unproductive as a way of thinking, but 'the enemy' is more likely to be the group(s) which hegemonize(s) and benefit(s) from all the infighting and bickering among feminists — i.e. state and Islamisms.

A politics of difference based on feminist theoretical analysis is an untried agenda in Egypt, and in fact in much of the Arab and Muslim world. Yet, in a situation where hegemony and power can be perceived as indeed circulating, such an agenda may appear to be worth trying at the very least. However, it must be kept in mind that feminist struggles are by no means likely to end with the creation of an alliance enriched by the politics of difference. On the contrary, skepticism of a power-free society is crucial to any feminist and alternative political agendas. Those who struggle must never grow complacent, as victories are often overturned and changes may take on different faces over time, and institutions, once established, can always be used for different purposes (Sawicki 1991: 28).

New Alliance

The continuous frustration of the Egyptian women's movement project to reform the Personal Status Law has prompted some Egyptian feminists to recently enter into an alliance with a rising modernizing religious group that adopts the project of liberal feminism side by side with that of Islamacizing the legal system — whom I refer to as Muslim feminists. According to this group, a reconstructed Islamic law is necessarily a liberal feminist one.

The women activists entering this alliance are effectively abandoning the secular in exchange for a more indigenous approach. The representation of what was previously perceived as secular feminist goals when viewed and articulated from within an Islamic

framework enables the women's movements' project of Personal Status Law reform to come to life. It also effectively stabilizes it and precludes the possibility of a critique of it.

Historically, while Egyptian feminism advocated secular feminism as a response to classical family law, through the use of such concepts as equality, consent and autonomy, it had had to rely on its alliance with the secular male elites controlling the state to promote its agenda. However, due to those elites' pursuit of the strategy of splitting the difference, both in legislation and adjudication, between the liberal demands of these feminists and the conservative demands of their religious adversaries, secular feminism has been a continuously frustrated project.

From my research, it becomes evident that the alliance between secular and Muslim feminists is necessary for the mobilization of legal reform. They both have similar targets, however, the Muslim feminist strategy of articulating women's rights through the indigenous language of Islam has been more effective in engaging public and opposition as well as winning public opinion.

This alliance is particularly important in light of the fact that even though the new law introduces substantial qualitative reform, its application is a different story. Especially since quite a number of judges have been reluctant to apply *khulu* rulings due to their lack of conviction in its Islamicity. Therefore, it becomes clear that the alliance of Egyptian feminists must continue its work to not only reform the law but also change popular perception of what is admissible in *Sharia* and condoned by Islam.

I believe that the group most prepared and capable of advocating a politics of difference successfully are Muslim feminists. Almost by definition Muslim feminism acts as a cultural bridge between more secular ideas adopted by the secularists, and the more stringent ideas espoused by Islamists. In other words, Muslim feminists are the in-between of the two extremes. Any alliance will have to take into account that extremes will not simply meet, but that the role of a go-between is crucial in that regard. It is in the recourse to some form of middle path which seeks to maintain difference whilst looking for the strengths inherent in them, as well as highlighting the commonalities, that Muslim feminism paves the way for a politics of difference. Muslim feminists are in the unique position of falling within a hegemonic Islamic paradigm, whilst simultaneously arguing from within it for a diversity of reinterpretations and readings from without. Speaking in term of meta-narratives, Muslim feminism speaks from the platform of a privileged discourse of Islam whilst simultaneously challenging the power of those who speak in the name of the same narrative (Islamists).

Suffice it here to state my conviction that, symbolically speaking, feminist activisms are, and will remain, potentially more powerful in altering the status quo than any other social movement or force. Hence the attempts to appropriate different agendas in order to quash feminism and to maintain divisions among its ranks. This reaffirms the fact that dialogue between the different feminisms — a dialogue that lingers less on political affiliation and dwells more and constructively on common goals developed for and by the different feminists — is a social, political and cultural necessity, and one that will have to be

made inevitable in the historical development of feminisms in Egypt. The old adage of power in unity need not be dismissed too easily so long as unity and homogeneity are not confused.

In Summary

I believe that my research provides a bridge between ‘foreign’ and ‘local’ researchers. In the course of my dissertation, I provide a detailed account of the context, content and political significance of contemporary Egyptian women’s activism. This is mainly achieved through my analysis of interviews with members of women’s groups and individual activists. However, I believe that women’s activism cannot be analyzed without contextualizing it in the wider political culture in which it takes place. Subsequently, I explore a range of factors, such as the Egyptian state, Islamist constituencies and the political left.

By documenting the shifting strategies used by various Egyptian women’s movement’s in their demand for legal reform over the past century, my thesis offers a detailed and in-depth account of a movement that has often been analyzed and categorized in a rather removed and homogenizing manner. However, my very position as a researcher might also have facilitated the acquisition of insight into a broader range of activities and attitudes which may be concealed from someone totally involved in the activities in question.

In analyzing the Islamist and emerging Muslim feminist strategies in pushing for Personal Status Law reform in Egypt, I have presented a comprehensive analysis of the public sphere discourse surrounding PSL reform prior to and following the ratification of the new PSL of 2000. The analysis includes an examination of the opposing arguments made by modernists, conservatives, clerics, Islamists and the varying groups of feminists. I felt it was vital that my analysis include an examination of the discourse taking place in the informal public sphere by grassroots women. The study looks at a cross-section of women from lower-income neighborhoods in Cairo and their views of the new law. The objective of the aforementioned analysis was to demonstrate how Muslim feminist strategies have been most effective in mobilizing for legal reform in both formal and informal public spheres. And finally, based on my findings, I have prescribed the consolidation of an alliance of feminists to substantiate their demand for legal reform by using an Islamic framework and jurisprudence.

Essentially, the Personal Status Law 2000 is still relatively new and with very sparse literature examining its effectiveness (or how it was arrived at). In fact, my dissertation is breaking ground with timely and pertinent research that will benefit Egyptian feminists. I believe my particular contribution will be important to the overall work on the legal strategizing as it shows the way forward and prescribes the effective strategies to overcome stagnation.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

REFERENCES

References

- Abdallah, Ahmed. 1985. The Student Movement and National Politics in Egypt. London: Al-Saqi Books.
- Abdel-Kader, Soha. 1973. The Status of Egyptian Women: 1900-1973. Cairo: Social Research Center, American University in Cairo.
- Abdel-Kader, Soha. 1987. Egyptian Women in a Changing Society, 1899-1987. Boulder and London: Lynne Rienner Publishers.
- Abdel-Kader, Soha. 1992. The Situation Analysis of Women in Egypt. Central Agency for Population, Mobilization and Statistics. Cairo: CAPMAS and UNICEF.
- Abduh, Mohammad. Al Islam Wal Mar'a fi Ra'y Al-Imam Muhammad Abduh. ed. Muhammad Amara. Cairo: Dar Al Ulum.
- Abed-Kotob, Sana and Denis J. Sullivan. 1999. Islam in Contemporary Egypt: Civil Society vs. the State. London: Lynne Rienner Publishers.
- Abu-Lughod, Lila. 1986. Veiled Sentiments: Honor and Poetry in a Bedouin Society. Los Angeles and Berkley: University of California Press.
- Abu-Lughod, Lila. 1991. "Writing Against Culture", in R.G. Fox (ed.), Recapturing Anthropology: Working in the Present. Santa Fe: School of American Research Press.
- Abu-Lughod, Lila. 1993. "Finding a Place for Islam: Egyptian Television Serials and the National Interests", in *Public Culture* 5: 493-513.
- Abu-Lughod, Lila. 1995. "The Objects of Soap Opera: Egyptian Television and the Cultural Politics of Modernity" in Miller (ed.), Worlds Apart.
- Abu-Lughod, Lila. 1998. "Feminist Longings and Post-Colonial Conditions", in Abu Lughod, Remaking Women.
- Abu-Lughod, Lila. 1998. "The Marriage of Islamism and Feminism in Egypt: Selective Repudiation as a Dynamic of Post-Colonial Cultural Politics" in Abu Lughod, Remaking Women.
- Abu-Lughod, Lila (ed.) 1995. Remaking Women: Feminism and Modernity in the Middle East. Princeton: Princeton University Press.
- Abu-Odeh, Lama. 2001. Modernizing Muslim Family Law: the Case of Egypt. Toronto : Faculty of Law, University of Toronto.
- Abu-Rabi, Ibrahim. 1996. Intellectual Origins of Islamic Resurgence in the Modern Arab World. New York: State University of New York Press.

Acker, Joan; Kate Barry and Johanna Esseveld. 1983. "Objectivity and Truth: Problems in Doing Feminist Research" in *Women's Studies Int. Forum*, Vol.6, No.4, p.423-435.

Afarfar, 'Ali. 1996. Surat Al-Mar'ah Bayna Al-Manzur Al-Dini Wa-al-Sha'bi Wa-al-'Ilmani. Beirut: Dar al-Tali'ah.

Afghani, Sa'id. 1970. Al-Islam Wa-al-Mar'ah. Beirut: Dar al-Fikr.

Afkhami, Mahnaz and Erika Friedl (eds.). 1997. Muslim Women and the Politics of Participation. New York: Syracuse University Press.

Afkhami, Mahnaz. 1995. Faith and Freedom: Women's Human Rights in the Muslim World. Syracuse, N.Y: Syracuse University Press.

Afsaruddin, Asma. 1999. Hermeneutics and Honor: Negotiating Female "Public" Space in Islamic/ate Societies. Cambridge, M.A.: Harvard University Press.

Afshar, Haleh (ed.). 1996. Women and Politics in the Third World. New York: Routledge.

Afshar, Haleh (ed.).1993. Women in the Middle East. London: Macmillan.

Ahmed, Akbar S. 1992. Postmodernism and Islam. London: Routledge.

Ahmed, Leila. 1992. Women and Gender in Islam. Yale University Press.

Ahmed, Leila. 1982. "Feminism and Feminist Movements in the Middle East: Preliminary Explorations in Turkey, Egypt, Algeria and the People's Republic of Yemen", in Al-Hibri (ed.), Women and Islam.

Ahmed, Leila. 1999. A Border Passage. New York: Penguin Books.

Al-Ali, Nadjie. 2000. Secularism, Gender and the State in the Middle East: The Egyptian Women's Movement. Cambridge: Cambridge University Press.

Al-Ali, Nadjie. 1997. "Feminism and Contemporary Debates in Egypt" in Chatty and Rabo (eds.), Organizing Women.

Al-Ali, Nadjie and Heba El-Kholy. 1999. "Inside/Out: The 'Native' and the 'Halfie' Unsettled" in Emerging Voices - Cairo Papers in Social Sciences. Cairo: American University Press.

Al-Azmeh, Aziz. 1993. Islams and Modernities. London and New York: Verso.

Al-Bannah, Hassan. 1943. Da'watuna. Cairo: Matba'at Al Ikhwan Al Muslimeen.

Al-Bannah, Hassan. 1970. Mudhakarāt Al-Da'wa Wa'l Da'iya. Beirut: Al-Maktab Al Islami.

- Al-Ghazali, Mohammed. 1992. Qadaya Al-Mar'a: Bayn Al-Ta'alid Al-Rakida wa Al-Wafida (Women's Issues: Between Old and Incoming Traditions). Cairo: Dar Al-Shuruq.
- Al-Ghazali, Zainab. 1979. "Al-Jam'iyyat Al-Nisa'iyya (Feminist Organizations)," in *Al-Da'wa*, No. 42, November.
- Al-Ghazali, Zainab. 1983. "Athar wa Mukhalafat Al-Isti'mar" (Effects and Residue of Colonization), in *Manar Al-Islam*, December.
- Al-Ghazali, Zainab. 1985. "Dawr Al-Mar'a fi Bina' Al-Mujtama'" (The Role of Woman in the Building of Society), unpublished paper presented at the Conference of Muslim Women, Lahore, November.
- Al-Ghazali, Zainab. 1986. *Ayyam Min Hayati* (Days of My Life), Cairo: Dar Al-Shuruq (8th edition).
- Al-Ghazali, Zainab. 1988. "Ibnati Hadhihi Al-Sutur Elayki" (My Daughter These Lines are For You), in *Liwa' Al-Islam*, II December.
- Al-Ghazali, Zainab. 1988. "Dawr Al-Mar'a Al-Muslima" (The Role of the Muslim Woman), in *Al-Umma*, October.
- Al-Ghazali, Zainab. 1989. "Ja'ani Ma'n" (They Came to Me Together), in *Liwa' Al-Islam*, Vol. 12, March.
- Al-Ghazali, Zainab. 1995. Return of the Pharaoh: Memoir in Nasser's Prison, trans. Mokrane Guezou, London: The Islamic Foundation.
- Al-Hashimi, Ibn, Humum. 1990. Al-Mar'a Al-Muslima Waf Da'iyya Zaynab Al-Ghazali (The Muslim Woman's Woes and the Preacher Zaynab Al-Ghazali). Cairo: Dar Al-'Itisam.
- Al-Mar'a Al-Gedida. 1986. *Al-Mar'a Al-Gedida (The New Woman)* 2, July.
- Al-Mar'a Al-Gedida. 1988. *Al-Mar'a Al-Gedida* 3, June.
- Al-Qaradawi, Yusuf. 1991. *Fatawi Mu'asira Li Al-Mar'a wa Al-Usra Al-Mus/ima* (Contemporary Fatwa for the Muslim Woman and Family), Cairo and Oman: Dar Al-Ira' and Dar Al-Oia'a, 1991.
- Al-Sabaki, Amal. 1987. Al-Haraka Al-Nisaiya Fi Misr Bayn Al-Thawratayn 1919-1953 (The Women's Movement in Egypt Between the Two Revolutions 1919-1953). Cairo: Hay'at Al-Kitab Al-Amaa.
- Al-Sayyid, Mustafa Kamil. 1993. "As Civil Society in Egypt" in *Middle East Journal* 47 (2): 228-42.

Al-Shaarawi, Muhammad. 1992. Al-Mar'a Al-Muslima (The Muslim Woman). Cairo: Maktabet Zahran.

Al-Said, Rifat. , 1977. Hassan Al-Banna, Mata, Kaifa wa Limatha? (Hassan Al-Banna: When, How and Why?), Cairo: Madbuli.

Al-Torki, Soraya and Camilia El-Solh (eds.). 1988. Arab women in the Field: Studying Your Own Society. Syracuse: Syracuse University Press.

Amara, Muhammad, ed. 1976. Al-A'mal Al-Kamila li-Qasim Amin. Vol.I & II. Beirut: Al-Mu'assasa Al-'Arabiyya Lil-Dirasat Wal Nashr.

Amin, Qasim. 1992. The Liberation of Women. Cairo: American University in Cairo Press.

Amin, Qasim. 1992. The New Woman. Cairo: American University in Cairo Press.

Antonius, Rachad. 1994. "Human Rights and Cultural Specificity: Some Reflections" in *Human Rights: Egypt and the Arab World*, PSS 17 (4): 15-23.

Arab Women's Solidarity Association. 1988. Contemporary Arab Thought and Women : Papers of the Arab Women Solidarity Association Second International Conference. Cairo, 3-5 November.

Arat, Yesim. 1996. "On Gender and citizenship in Turkey", in Middle east Report (Jan-March): 28-31.

Armburst, Walter. 1996. Mass Culture and Modernism in Egypt. Cambridge: Cambridge University Press.

Ashur, Ahmad Issa. 1978. "*Huquq Al-Mar'a Fil-Islam*" in *Al-Harakat Al-Nisa'iyya Wa-Silatuha Bil-Isti'mar*, ed. Muhammad Atiyya Khamis. Cairo: Dar Al-Ansar.

Ask, Karin and Marit Tjomsland, eds. 1998. Women and Islamization: Contemporary Dimensions of Discourse on Gender Relations. Oxford: Berg Press.

Assiter, Alison. 1995. Enlightened Women: Modernist feminism in a Post-Modern Age. London: Routledge.

Awde, Nicholas. 2000. Women in Islam : An Anthology from the Qur'an and Hadith. New York : St. Martin's Press.

Ayubi, Nazih. 1991. The State and Public Policies in Egypt Since Sadat. Reading: Ithaca Press.

Badran, Margot. 1988. "Dual Liberation: Feminism and Nationalism in Egypt, 1870-1925", in *Feminist Issues Spring* 8 (1): 15-34.

- Badran, Margot, and Marilyn Cooke, eds. 1990. Opening the Gates: A Century of Arab Feminist Writing. London: Virago Press.
- Badran, Margot. 1991. "Competing Agenda: Feminists, Islam and the State in 19th and 20th Century Egypt", in Kandiyoti (ed.), Women, Islam and the State.
- Badran, Margot. 1993. "Independent Women: More than a Century of Feminism in Egypt", in Tucker (ed.), Arab Women.
- Badran, Margot. 1995. Feminists, Islam and Nation: Gender and the Making of Modern Egypt. Princeton University Press.
- Bahiy Al-Din, Amira. 1994. "Al-Tamyeez Did Al-Mar'a Fi Qanun Al-'Uqubat: Dirasa Awwaliyya" (Discrimination Against Woman in The Criminal Code: A Preliminary Study), unpublished paper.
- Bahiy Al-Din, Amira. 1995. "Wad'e Al-Mar'a Al-Qanuni Li Qanun Al-Ahwal Al-Shakhsiyya" (The Legal Position of Women in the Family Law), in Ahmad Abdallah (ed.), Egyptian Women's Legal Awareness, Cairo: Amideast and the Arab Lawyers' Union.
- Bajuri, Jamal Muhammad Fiqi Rasul. 1986. Al-Mar'ah Fi Al-Fikr Al-Islami. Mosul, Iraq: Mudiriyat Dar al-Kutub lil-Tiba'ah wa-al-Nashr.
- Baker, Raymond W. 1978. Egypt's Uncertain Revolution Under Nasser and Sadat. Cambridge, MA: Harvard University Press.
- Baker, Raymond W. 1990. Sadat and After: Struggles for Egypt's Political Soul. Cambridge, MA: Harvard University Press.
- Banna, Jamal. 1998. Al-Mar'ah Al-Muslimah Bayna Tahrir Al-Qur'an Wa-Taqyid Al-Fuqaha'. Cairo: Dar al-Fikr al-Islami.
- Barakat, Halim. 1993. The Arab World: Society, Culture and the State. Berkeley: University of California Press.
- Baron, Beth. 1981. "Unveiling in Early Twentieth Century Egypt: Practical and Symbolic Considerations", in *Middle Eastern Studies* 3: 370-86.
- Baron, Beth. 1994. The Women's Awakening in Egypt. New Haven: Yale University Press.
- Baron, Beth. 1997. "Nationalist Iconography: Egypt as a Woman", in Jankowski and Gershoni (eds.), Rethinking Nationalism.
- Barrett, Michelle and Mary McIntosh. 1985. "Ethnocentrism in Socialist Feminist Theory", in *Feminist Review* 20.

- Barrett, Michelle. 1987. "The Concept of Difference", in *Feminist Review* 26.
- Barrett, Michelle and Anne Philips (eds.). 1992. Destabilizing Theory: Contemporary Feminist Debates. Cambridge: Polity Press.
- Basu, Amrita. 1995. "Introduction", in Amrita Basu (ed.), The Challenge of Local Feminisms: Women's Movements in Global Perspective. Boulder, CO: Westview Press.
- Basu, Amrita (ed.). 1995. The Challenge of Local Feminisms: Women's Movements in Global Perspective. Boulder, San Francisco, Oxford: Westview Press.
- Battaglia, Debbora (ed.). 1995. Rhetorics of Self-Making. Berkeley and Los Angeles: University of California Press.
- Bauer, Jan. 1996. Only Silence Will Protect You: Women, Freedom of Expression and the Language of Human Rights. Montreal: International Center for Human Rights and Democratic Development.
- Beck, Lois, and Nikki Keddie, eds. 1978. Women in the Middle Eastern World. Cambridge, Mass.: Harvard University Press.
- Beck, Lois, and Nikki Keddie, eds. 1978. Women in the Muslim World. Cambridge, Mass.: Harvard University Press.
- Bell, Dianne, Pat Caplan and W.J. Karim (eds.). 1993. Gendered Fields: Women, Men and Ethnography. London and New York: Routledge.
- Benhabib, Seyla. 1992. Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics. Oxford: Polity Press.
- Benhabib, Seyla, Judith Butler, Drucilla Cornell and Nancy Fraser. 1995. Feminist Contentions: A Philosophical Exchange (Introduction by Linda Nicholson). London and New York: Routledge.
- Benhabib, Seyla. "Models of Public Space: Hannah Arendt, the Liberal Tradition and Jurgen Habermas," in Habermas and the Public Sphere. Craig Calhoun, ed. 1992. Cambridge, Mass.: MIT University Press.
- Berque, Jacques. 1972. Egypt: Imperialism and Revolution. London: Faber.
- Bibars, Iman. 1987. "Women's Political Interest Groups in Egypt", unpublished M.A. thesis presented to the Political Science Department, American University in Cairo.
- Binder, Leonard. 1988. Islamic Liberalism: A Critique of Development Ideologies. Chicago and London: The University of Chicago Press.
- Bint Al-Ard. 1987. *Bint Al-Ard* (Daughter of the Land) 3, July.
- Bint Al-Ard. 1993. *Bint Al-Ard* (Daughter of the Land) 8, January.

Bint Al-Nil. 1954. Apr., No. 102.

Blackstone, S. Commentaries on the Laws of England. 4th edn, ed.

Bock, Gisela and Susan James. 1992. Beyond Equality and Difference: Citizenship, Feminist Politics and Female Subjectivity. London: Routledge.

Borrmans, Maurice. 1979. "Documents Sur La famille au Maghreb de 1940 a Nos Jours," in *Oriente Moderno* 59: i-x, 1-438.

Botman, Selma. 1987. "Women's Participation in Radical Egyptian Politics 1939-1952", in Women in the Middle East - Khamsin. London and New York: Zed Books.

Botman, Selma. 1999. Engendering Citizenship in Egypt. New York: Columbia University Press.

Boulares, Habib. 1990. Islam: The Fear and the Hope. London and New Jersey: Zed Books.

Boulatta, Issa J. 1990. Trends and Issues in Contemporary Arab Thought. New York: SUNY Press.

Bourguiba, Habib. 1967. Articles de Presse. Tunis: Secretariat d'Etat.

Boyte, Harry C. "The Pragmatic Ends of popular Politics" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

Brand, Laurie A. 1998. Women, the State and Political Liberalization. New York: Columbia University Press.

Brooks, Stephen and Alain G. Gagnon. 1994. The Political Influence of Ideas: Policy Communities and the Social Sciences. Westport, Conn.: Praeger.

Brown, Daniel. 1996. Rethinking Tradition in Modern Islamic Thought. Cambridge: Cambridge University Press.

Burke, Edmund (ed.). 1993. Struggle and Survival in the Modern Middle East. Bloomington: Indiana University Press.

Burton, John. 1994. An Introduction to Hadith. Edinburgh: Edinburgh University Press.

Butler, Judith. 1990. Gender Trouble. New York: Routledge.

Butler, Judith. 1993. Bodies that Matter. London and New York: Routledge.

Butler, Judith and Scott Joan. 1992. Feminists Theorize the Political. New York and London: Routledge.

- Butler, M.A. 1978. "Early Liberal Roots of Feminism: Locke and the Attack on Patriarchy", in *American Political Science Review* 72 (1): 149.
- Calder, Norman. 1993. Studies in Early Muslim Jurisprudence. Oxford: Clarendon Press.
- Calhoun, Craig. 1992. Habermas and the Public Sphere. Cambridge, Mass.: MIT University Press.
- Calhoun, Craig J. 1994. Social Theory and the Politics of Identity. Oxford, UK: Blackwell.
- Carroll, W.K. 1992. Organizing Dissent: Contemporary Social Movements in Theory and Practice. Toronto: Garamond Press.
- Carter, Cynthia, Gill Branston and Stuart Allen. 1998. News, Gender and Power. London: Routledge.
- Cassell, J. 1977. "The Relationship of Observer to Observed in Peer Group Research", in *Human Organization*, Vol. 36, No.4.
- Chatterjee, Partha. 1986. Nationalist Thought and the Colonial World: A Derivative Discourse. London: Zed Books.
- Chatty, Dawn and Annika Rabo. 1997. "Formal and Informal Groups in the Middle East", in Chatty and Rabo (eds.), Organizing Women.
- Chatty, Dawn and Annika Rabo. 1997. Organizing Women: Formal and Informal Groups in the Middle East. Oxford and New York: Berg.
- Chemais, Amina. 1987. "Obstacles Hindering Moslem Woman from Obtaining a Divorce in Egypt" (monograph). Egypt: UNICEF.
- Chow, Rey. 1991. "Violence in the Other Country: China as Crisis, Spectacle, and Woman", in C.T. Mohanty et al. (eds.), Third World Women and The Politics of Feminism. Bloomington: Indiana University Press.
- Clifford, James. 1988. The Predicament of Culture. Cambridge, MA: Harvard University Press, 1988.
- Cole, Juan Ricardo (ed.). 1981. "Feminism, Class and Islam in Turn-of-the-Century Egypt", in *International Journal of Middle East Studies* 13: 387-407.
- Communications Group for the Enhancement of the Status of Women in Egypt. 1992. Legal Rights of Egyptian Women in Theory and Practice. Cairo: Dar Al Kutub.
- Connell, R.W. 1987. Gender and Power. Cambridge: Polity Press.
- Connell, R.W. 1990. "The State, gender and Sexual Politics: Theory and Appraisal," in *Theory and Society* 9 (5), October: 507-45.

Cook, Judith and Mary Margaret Fonow. 1986. "Knowledge and Women's Interests: Issues of Epistemology and Methodology in Feminist Sociological Research" in *Social Inquiry*. Vol.56, No.1, pp.2-29.

Cooke, Miriam. 2001. Women Claim Islam : Creating Islamic Feminism Through Literature. New York : Routledge.

Cornell, Drucilla. 1999. Beyond Accommodation: Ethical Feminism, Deconstruction and the Law. New York: Rowman and Littlefield Publishers Inc.

Dahl, Tove Stang. 1992. The Muslim Family: A Study of Women's Rights in Islam. Oslo: Scandinavian University Press.

Dallmayr, Fred and Thomas A. McCarthy. 1977. Understanding and Social Inquiry. Notre Dame: University of Notre Dame.

Dearing, James. 1996. Agenda Setting. Thousand Oaks, CA: Sage Publications.

De Beauvoir, Simone. 1970. The Second Sex. New York: Knopf.

Delphy, C. 1993. "Rethinking Sex and Gender", in *Women's Studies International forum* 16 (1): 1-9.

Derrida, Jacques. 1981. Positions. Chicago: University of Chicago Press.

Dessouki, Ali E. (ed.). 1982. Islamic Resurgence in the Arab World. New York: Praeger Publishers.

DuBois, Barbara. 1983. "Passionate Scholarship: Notes on Values, Knowing and Method in Feminist Social Science" in *Theories of Women's Studies*. ed. Gloria Bowles and Renate D. Klein. London: Routledge.

Durkheim, Emile. 1954. The Elementary Forms of Religious Life. New York: Free Press.

Eickelman, Dale F. 1989. The Middle East: An Anthropological Approach. Englewood Cliffs: Prentice Hall.

Eickelman, Dale F. 1997. "Muslim Politics: The Prospects for Democracy in North Africa and the Middle East", in Entelis (ed.), Islam, Democracy and the State.

Eickelman, Dale F. and Jon W. Anderson, eds. 1999. New Media in the Muslim World: the Emerging Public Sphere. Bloomington: Indiana University Press.

Eisenstein, Zillah. 1989. The Female Body and the Law. Berkley: University of California Press.

Eisenstein, Zillah. 1984. "The Relative Autonomy of the Capitalist Patriarchal State", in Zillah R. Eisenstein (ed.), Feminism and Sexual Equality Crisis in Liberal America. New York: Monthly Review Press.

- El Alami, Dawoud Sudqi. 1992. *The Marriage Contract in Islamic Law in the Shari`ah and Personal Status Laws of Egypt and Morocco*. Boston: Graham & Trotman.
- El Alami, Dawoud Sudqi. 1996. Islamic Marriage and Divorce Laws of the Arab World. London: Published for CIMEL by Kluwer Law International.
- El-Baz, Shahida. 1992. "Makanat Al-Mar'a Al-Masriyah fi Al-Mugtama'a (The Status of the Egyptian Woman in Society), *Al-Ahram Daily*. Cairo, March 14.
- El-Baz, Shahida. 1997. "The Impact of Social and Economic Factors on Women's Group Formation in Egypt" in Chatty and Rabo (eds.), Organizing Women.
- El-Guindy, Fadwa. 1981. "Veiling Infitah with Muslim Ethic: Egypt's Contemporary Islamic Movement", *Social Problems* 28 (4): 465-85.
- El-Guindy, Fadwa. 1983. "Veiled Activism: Egyptian Women in the Contemporary Islamic Movement", in *Peuples Meditteraneens* 22-3, January-June: 79-89.
- El-Guindy, Fadwa. 1999. Veil: Modesty, Privacy and Resistance. New York: Berg.
- El-Saadawi, Nawal. 1971. *Al-Mar'a wa Al-Jins (Woman and Sex)*. Cairo: n.p.
- El-Saadawi, Nawal. 1988. "The Political Challenges Facing Arab Women at the End of the Twentieth Century" in Toubia (ed.), Women of the Arab World.
- El-Saadawi, Nawal. 1993. "Women's Resistance in the Arab World and Egypt" in Afshar (ed.), Women in the Middle East. London: Macmillan.
- Elshtain, Jean B. 1992. "The Power and Powerlessness of Women", in Gisela Bock and Susan James, Beyond Equality and Difference: Citizenship, Feminist Politics and Female Subjectivity. London: Routledge.
- Emerson, Robert Rachel Fretz and Linda Shaw. 1995. Writing Ethnographic Fieldnotes. Chicago: The University of Chicago Press.
- Enayat, Hamid. 1982. Modern Islamic Political Thought. London: Macmillan Press Ltd.
- Engels, F. 1942. The Origins of the Family, Private Property and the State. New York: International Publishers.
- Engineer, Asghar Ali. 1992. The Rights of Women in Islam. London: C.Hurst & Co. Publishers.
- Esposito, John L. 1982. Women in Muslim Family Law. Syracuse: Syracuse University Press.

- Esposito, John L. 1992. The Islamic Threat: Myth or Reality. Oxford: Oxford University Press.
- Esposito, John L. 1996. Islam and Democracy. New York: Oxford University Press.
- Ezzat, Heba Ra'uf. 1994. "An Islamic Women's Liberation Movement", in *Middle East Report*, Vol. 24, No. 191, November-December: 26-7.
- Faksh, Mahmud. 1997. The Future of Islam in the Middle East: Fundamentalism in Egypt, Algeria and Saudi Arabia. London: Praeger.
- Fanon, Frantz. 1952. Black Skin, White Mask (trans. Charles Markham). London: McGibbon & Gee.
- Fanon, Frantz. 1962. The Wretched of the Earth (trans. Constance Farrington). Harmondsworth: Penguin.
- Farah, Nadia. 1986. Religious Strife in Egypt: Crisis and Ideological Conflicts in the Seventies. New York: Gordon & Breach Science Publishers.
- Faraj, Abdel Salam. 1999. Al-Farida Al-Ghariba. Cairo: Dar Al Fikr Al-Islami.
- Ferguson, Margaret and Jennifer Wicke (eds.). 1994. Feminism and Postmodernism. Durham, N.C. and London: Duke University Press.
- Ferneau, Elizabeth W. (ed.). 1985. Women and Family in the Middle East. Austin: University of Texas Press.
- Ferneau, Elizabeth W. 1998. In Search of Islamic Feminism. New York: Anchor Books.
- FGM Task Force (1997). "Outlook and Activity Guidelines." Cairo (September).
- FGM Task Force (1997). "FGM Task Force Position Paper." Cairo (December)
- Fiqi, Mustafa. 1991. Al'Aqabat fi Al-Siyasa Al-Misriyyah. Cairo: Dar Al-Hilal.
- Fleming, Marie. 1997. Emancipation and Illusion: Rationality and Gender in Habermas' Theory of Modernity. University Park, PA: Pennsylvania State Univ. Press.
- Flores, Alexander. 1993. "Secularism, Integralism and Political Islam: The Egyptian Debate", *MERIP*, July-August: 32-8.
- Fonow, Mary Margaret and Judith A. Cook. 1991. "Back to the Future: A look at the Second Wave of Feminist Epistemology and Methodology" in Beyond Methodology, ed. Mary Margaret Fonow and Judith A. Cook, pp.1-15. Bloomington: Indiana University Press.
- Foucault, Michel. 1972. The Archaeology of Knowledge. trans. A. M. Sheridan Smith, New York: Random House.

Foucault, Michel. 1980. Power/Knowledge: Selected Interviews and Other Writings, 1972-1977. New York, N.Y.: Pantheon Books.

Foucault, Michel. 1980. The History of Sexuality. New York: Vintage Books.

Foucault, Michel. 1983. Beyond Structuralism and Hermeneutics. Chicago: University of Chicago Press.

Foucault, Michel. 1999. Religion and Culture. London: Routledge.

Fraser, Nancy. "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

Fraser, Nancy. And Linda J. Nicholson. 1990. "Social Criticism Without Philosophy: An Encounter Between Feminism and Postmodernism" in Nicholson (ed.), Feminism/Postmodernism.

Gaffney, Patrick. 1994. The Prophet's Pulpit: Islamic Preaching in Contemporary Egypt. Berkley: University of California Press.

Gallagher, Nancy. 1989. "Islam v. Secularism in Cairo: An Account of the Dar Al-Hikma Debate", *Middle Eastern Studies* 25 (2), April: 208-15.

Garnham, Nicholas. "The Media and the Public Sphere" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

Gatens, M. 1991. "A Critique of the Sex/Gender Distinction", in S. Gunew (ed.), A Reader in Feminist Knowledge. London: Routledge.

Geertz, Clifford. 1988. Works and Lives: The Anthropologist as Author. Stanford: Stanford University Press.

Geertz, Clifford. 1973. The Interpretation of Cultures. New York: Basic Books.

Gerami, Shahin. 1996. Women and Fundamentalism. New York: Garland Publishing Inc.

Ghoussoub, Mai. 1985. "Feminism - or the Eternal Masculine - in the Arab World," in *New Left Review* 161: 3-18.

Giddens, Anthony. 1979. Central Problems in Social Theory: Action, Structure and Contradiction in Social Analysis. Basingstoke and London: Macmillan.

Gilligan, Carol. 1982. In a Different Voice. Cambridge: Harvard University Press.

Gluck, Sherna Berger and Daphne Patai, (eds.). 1991. Women's Words: The Feminist Practice of Oral History. London: Routledge.

Goffman, Erving. 1974. Frame Analysis: An Essay on the Organization of Experience. New York: Harper.

Gould, Carol C. 1997. Gender: Key Concepts in Critical Theory. New Jersey: Humanities Press.

Graham, Brown, Sarah. 1981. "Feminism in Egypt: A Conversation with Nawal Saadawi", *MERIP Report* 95: 24-7.

Graham, Brown, Sarah, Enid Hill and Amany Kamal Eldin. 1985. "After Jehan's Law: A New Battle Over Women's Rights", in *The Middle East* 129: 17-21.

Gramsci, Antonio. 1978. Selections from Political Writings 1921-1926 (trans.). London: Lawrence & Wishart.

Grant, Rebecca and Kathleen Newland (eds.). 1991. Gender and International Relations. Bloomington: Indiana University Press.

Gusfield, Joseph. 1981. "Social Movement and Social Change: Perspectives of Linearity and Fluidity" in *Research in Social Movement, Conflict and Change*. Vol.4: 317-39.

Habermas, Jürgen. 1979. Communication and the Evolution of Society. Boston: Beacon Press.

Habermas, Jürgen. 1989. Structural Transformation of Public Sphere. Cambridge, Mass.: MIT University Press.

Habermas, Jürgen. "Further Reflections on the Public Sphere" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

Haddad, Yvonne Yazbeck, Byron Haines and Ellison Findly. 1984. The Islamic Impact. New York: Syracuse University Press.

Haddad, Yvonne Yazbeck. 1984. "Islam, Women and Revolution in Twentieth Century Arab Thought", *The Muslim World* 74: 160.

Haddad, Yvonne Yazbeck and John L. Esposito. 1998. Islam, Gender and Social Change. Oxford: Oxford University Press.

Hall, Stuart and David Held. 1990. "Citizens and Citizenship" in Hall and Jacques (eds.), New Times: The Changing Face of Politics in the 1990s.

Hall, Stuart and Martin Jacques (eds.). 1990. New Times: The Changing Face of Politics in the 1990s. New York: Verso.

Hallaq, Wael. 1995. Law and Legal Theory in Classical and Medieval Islam. Hampshire, Great Britain: Variorum – Ashgate Publishing Ltd.

- Hallaq, Wael. 1997. A History of Islamic Legal Theories. Cambridge: Cambridge University Press.
- Halliday, Fred. 1994. "The Politics of Islamic Fundamentalism: Iran, Tunisia and the Challenge to the Secular State", in Ahmed and Donnan (eds.) Islam, Globalization and Postmodernity.
- Halliday, Fred and Alavi, Harnza (eds.). 1988. State and Ideology in the Middle East and Pakistan. London: Macmillan Education.
- Hammami, Reza and Martina Reiker. 1988. "Feminist Orientalism and Orientalist Marxism" in *New Left Review* 170: 92-106.
- Hammersley, Martyn. 1992. What's Wrong With Ethnography? London and New York: Routledge.
- Haraway, Donna. 1988. "Situated Knowledges: The Science Question in Feminism and the Privilege of the Partial Perspective", in *Feminist Studies* 14: 575-99.
- Haraway, Donna. 1988. "The Science Question in Feminism and the Privilege of the Partial Perspective", in *Feminist Studies* 14 (3): 575-99.
- Harding, Sandra. 1986. The Science Question in Feminism. Ithaca: Cornell University Press.
- Harding, Sandra. 1991. Whose Science? Whose Knowledge? Ithaca: Cornell University Press.
- Harding, Sandra. 1987. Feminism and Methodology. Bloomington: Indiana University Press.
- Hartman, Heidi. 1979. "Capitalism, patriarchy and Job Segregation" in Eisenstein (ed.), Capitalist Patriarchy and the Case for Socialist Feminism.
- Hassan, Rifaat. 1990. "An Islamic Perspective" in J. Becher (ed.), Women, Religion and Sexuality. Geneva: Kitab Bhavan World Council of Churches Publications.
- Hastrup, Kirsten. 1992. "Writing Ethnography: State of the Art" in Okely and Callaway (eds.), Anthropology and Autobiography.
- Hastrup, Kirsten. 1990. "The Ethnographic Present: A Reinvention", in *Cultural Anthropology* Vol. 5, No.1: 45-61.
- Hatem, Mervat. 1986. "The Enduring Alliance of Nationalism and Patriarchy in Muslim Personal Status Laws: The Case of Modern Egypt", in *Feminist Issues* 6 (1): 19-43.
- Hatem, Mervat. 1992. "Economic and Political Liberation in Egypt and the Demise of State Feminism", in *International Journal of Middle East Studies* 24: 231-51.

- Hatem, Mervat. 1993. "Toward the Development of Post-Islamist and Post-Nationalist Feminist Discourses in the Middle East", in Tucker (ed), Arab Women.
- Hatem, Mervat. 1994. "Egyptian Discourses on Gender and Political Liberalization: Do Secularist Islamist Views Really Differ?", in *Middle East Journal* 48 (4) Autumn: 661-76.
- Hekman, Susan. 1992. "Truth and Method: Feminist Standpoint Theory Revisited," in *Signs: Journal of Women in Culture and Society* 22 (2):341-65.
- Hekmat, Anwar. 1997. Women and the Koran : The Status of Women in Islam. Amherst, N.Y. : Prometheus Books.
- Hempel, C. G. and P. Oppenheim. 1965. "Studies in the Logic of Explanation" in Aspects of Scientific Explanation. New York: The Free Press.
- Hervik, Peter. 1994. "Shared Reasoning in the Field: Reflexivity Beyond the Author", in Kirsten Hastrup and Peter Hervik (eds.). Social Experience and Anthropological Knowledge. London and New York: Routledge.
- Hesse-Biber, Sharlene; Christina Gilmartin; and Robin Lydenberg, eds. 1999. Feminist Approaches to Theory and Methodology. Oxford: Oxford University Press.
- Hiley, David R., James Bohman, and Richard Shusterman. 1991. The Interpretive Turn: Philosophy, Science, Culture. Ithaca: Cornell University Press.
- Hill-Collins, Patricia. 1990. Black Feminist Thought: Knowledge, Consciousness and the Knowledge of Empowerment. London: Harper Collins.
- Hippler, Jochen and Lueg, Andrea (eds.). 1995. The Next Threat: Western Perceptions of Islam. trans. Leila Friese, London: Pluto Press.
- Hohendahl, Peter Uwe. "The Public Sphere: Models and Boundaries" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.
- Holub, Robert C. 1991. Jurgen Habermas: Critic in the Public Sphere. London: Routledge.
- Hoodfar, Homa. 1991. "Personal Strategy and Public Participation in Egypt", in Redclift and Sinclair (eds.), Working Women: International Perspectives on Labor and Gender Ideology.
- Hoodfar, Homa. 1995. "State Policy and Gender Equity in Post-Revolutionary Iran" in Obermeyer, Family, Gender and Population Policy in the Middle East. Cairo: AUC Press.
- Hoodfar, Homa. 1996. "Bargaining with Fundamentalism: Women and the Politics of Population Control in Iran", *Reproductive Health Matters* 8 (Nov): 30-40.

Hoodfar, Homa. 1997. "The Veil in their Minds and On Our Heads: The Persistence of Colonial Images of Muslim Women", in Lloyd and Lowe (eds.), The Politics of Culture in the Shadow of the Capital. Durham, N.C.: Duke University Press.

Hooks, bell. 1984. Feminist Theory: From the Margin to the Center. Boston, MA : South End Press.

Hooks, bell. 1990. Yearning: Race, Gender and Cultural Politics. Boston: South End Press.

Hourani, Albert. 1983. Arabic Thought in the Liberal Age, 1789-1939. Cambridge: Cambridge University Press.

Hourani, Albert. 1991. A History of the Arab People. London: Faber & Faber.

Hourani, George F. 1971. Islamic Rationalism: The Ethics of Abd Al-Jabbar. Oxford: Clarendon Press.

Hull, Gloria and Smith, Barbara. 1982. "The Politics of Black Women's Studies", in All The Women are White, All the Blacks Are Men, But Some of Us are Brave: Black Women's Studies. eds. G.T. Hun, P. Bell Scott and B. Smith. New York: Feminist Press.

Humm, Maggie (ed.). 1992. Modern Feminisms: Political, Literary, Cultural. New York: Colombia University Press.

Hussein, Aziza. 1985. "Recent Amendments to the Personal Status Law", in Fernea (ed.), Women and Family in the Middle East.

Ibrahim, Ahmad. 1994. Ahkam al-ahwal al-shakhsyah fi al-shari'ah al-Islamiyah.

Ibrahim, Saad Eddin (ed.). 1988. Society and the State in the Arab World. Amman: Arab Thought Forum.

Ibrahim, Saad Eddin. "Egypt's Islamic Activism in the 1980s," in *Third World Quarterly* (April 1988) p.641.

Ibrahim, Saad Eddin. 1995. "Civil Society and Prospects for Democratization in the Arab World", in Norton (ed.), Civil Society in the Middle East.

Ibrahim, Saad Eddin. 1980. "Anatomy of Egypt's Militant Islamic Groups: Methodological Notes and Preliminary Findings", in *Journal of Middle East Studies* Vol. 12: 423-53 and 481-99.

Ikkaracan, Pinar. 1996. Women's Movements in Turkey: A Brief Overview in Women for Women's Rights Report.

Imam Malik Ibn Anas. Al-Muwatta of Imam Malik Ibn Anas. Translated by Aisha Bewley. 1989. London: Kegan Paul International.

- Jaggar, Alison M. and Iris Marion Young. 1998. A Companion to Feminist Philosophy. Malden, M.A.: Blackwell.
- Jayartne, Toby Epstein and Abigail J. Stewart. 1991. "Quantitative and Qualitative Methods in the Social Sciences: Current Feminist Issues and Practical Strategies" in Beyond Methodology, ed. Mary Margaret Fonow and Judith A. Cook, 1-15. Bloomington: Indiana University Press.
- Jaywardena, Kumari. 1986. Feminism and Nationalism in the Thirld World. Zed Books.
- Jick, T.D. 1979. "Mixing Qualitative and Quantitative Methods: Triangulation in Action" in *Administrative Science Quarterly*. Vol.24, pp. 602-610.
- Joseph, Suad. 1988. "Research as a Mughtaribi" in Arab Women in the Field, ed. Soraya Altorki and Camilla Fawzi El-Solh, 1-25. Syracuse: Syracuse University Press.
- Joseph, Suad. 1993. "Gender and Civil Society", *MERIP* 183: 22-6.
- Joseph, Suad. 2000. Gender and Citizenship in the Middle East. Syracuse: Syracuse University Press.
- Jumhuriya Al-Arabiya Al-Mutahida. 1964. Al-Dustur. Cairo: Maslahat Al-Istilamat.
- Jumhuriyat Misr, Wizarat Al-'Adl. 1956. Al-Dustur. Cairo: Al-Matba'a Al-Amiriya.
- Jumhuriyat Misr, Wizarat Al-'Adl. 1956. Majmut Qawanin Al-Mutaliqa bi Qadha' Al-Ahwal Al-Shakhsiyya. Cairo: Al-Matba'a Al-Amiriya.
- Juynboll, G.H.A. 1983. Muslim Tradition. Cambridge: Cambridge University Press.
- Kandiyoti, Deniz. (ed.) 1991. Women, Islam and the State. Philadelphia: Temple University Press.
- Kandiyoti, Deniz. 1996. Gendering the Middle East: Emerging Perspectives. London: I.B. Taurus.
- Kant, Immanuel. 1970. Political Writings. (ed. H. Reiss). Cambridge: Cambridge University Press.
- Kant, Immanuel. 1887. The Philosophy of Law. Edinburgh: T & T Clark.
- Kaplan, Abraham. 1964. The Conduct of Inquiry: Methodology for Behavioral Science. San Francisco: Chandler Publishing Co.
- Karam, Azza M. 1993. "Fundamentalism, Modernity and Women's Groups in Egypt: Activist Women's Realities" *Occasional Paper* No.2, December. Amsterdam: MERA.

- Karam, Azza M. 1994. "Gender in Egypt: Between Islamism, Feminism and the State, Perspectives of Some Women Activists", in *Vena Journal: Gender, the Family and the State* 6 (10), June: 41-7.
- Karam, Azza M. 1996. "An Apostate, a Proposed New Marriage Contract and Egyptian Women: Where to Now?", *WAF - Women Against Fundamentalism* 8: 29-31.
- Karam, Azza M. 1998. Women, Islamism and the State: Contemporary Feminisms in Egypt. New York: St. Martin's Press.
- Keane, John (ed.) 1988. Democracy and Civil Society. London: Verso.
- Keddie, Nikki. 1988. "Ideology, Society and the State in Post-Colonial Muslim Societies", in Halliday and Alavi (eds.), State Ideology in the Middle East and Pakistan.
- Keddie, Nikki. 1972. Sayyid Jamal Al-Din Al-Afghani: A Political Biography. Berkeley: University of California Press.
- Keller, Evelyn Fox. 1978. "Gender and Science" in *Psychoanalysis and Contemporary Thought: A Quarterly of Integrative and Interdisciplinary Studies*. Vol.1, No.3, pp.409-433.
- Kelly, Michael. 1994. Critique and Power: Recasting the Foucault/Habermas Debate. Cambridge, Mass.: MIT Press.
- Kepel, Gilles. 1985. The Prophet and Pharaoh: Muslim Extremism in Egypt. London: Saqi Books.
- Kerr, Malcolm H. 1966. Islamic Reform: the Political and Legal Theories of Muhammad 'Abduh and Rashid Rida. Berkeley: University of California Press.
- Khalifa, Ijlal. 1973. Al-Haraka Al-Nisa'iyya Al-Haditha (The Modern Women's Movement). Cairo: Dar al Kutub.
- Khater, Akram and Cynthia Nelson. 1988. "Al-Haraka Al-Nissa'iyya: The Women's Movement and Political Participation in Egypt", in *Women's Studies International Forum* 11 (5): 465-83.
- Kitcher, P. 1988. "Explanatory Unification" in Theories of Explanation. ed. J.C. Pitt. New York: Oxford University Press.
- Kitcher, P. 1985. "Two Approaches to Explanation" in *Journal of Philosophy*. 82:632-39.
- Klee, Robert. 1997. "The Politics of Epistemology" in Introduction to the Philosophy of Science. Oxford: Oxford University Press.
- Kramer, Lloyd. "Habermas, History and Critical Theory" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

- Kramer, Martin (ed.) 1991. Middle Eastern Lives: The Practice of Biography and Self-Narrative. Syracuse: Syracuse University Press.
- Kristeva, Julia. 1981. "Women's Time", in *Signs*, No.7.
- Kristeva, Julia. 1982. The Power of Horror. New York: Colombia University Press.
- Kuhn, Thomas S. 1970. The Structure of Scientific Revolutions. Chicago: University of Chicago Press.
- Landes, Joan B. 1998. Feminism, the Public and the Private. New York: Oxford University Press.
- Lara, Maria Pia. 1998. Moral Textures: Feminist Narratives in the Public Sphere. Cambridge: Polity Press.
- Larana, Enrique, Hank Johnston and Joseph Gusfield. 1994. New Social Movements: From Ideology to Identity. Philadelphia: Temple University Press.
- Lazreg, Marnia. 1994. The Eloquence of Silence: Algerian Women in Question. New York: Routledge.
- Lee, Benjamin. "Textuality, Mediation and Public Discourse" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.
- Levi-Strauss, C. 1969. The Elementary Structures of Kinship. Boston: Beacon Press.
- Lindholm, Charles. 1995. "The New Middle Eastern Ethnography", *Journal of the Anthropological Institute* 1 (4): 805-20.
- Lister, Ruth. 1997. Citizenship, Feminist Perspectives. New York: New Yourk University Press.
- Lister, Ruth. 1997. "Citizenship: Towards a Feminist Synthesis", in *Feminist Review* 57 (fall): 19-38.
- Locke, John. 1967. Two Treatise of Government, 2nd edition. Cambridge: Cambridge University Press.
- Lorde, Audre. 1984. Sister Outsider: Essays and Speeches. New York: The Crossing Press.
- MacKinnon, Catherine. 1982. "Feminism, Marxism, Method and the State: An Agenda for Theory", in *Signs: Journal of Women in Culture and Society* 7 (3): 515-44.
- MacKinnon, Catherine. 1983. "Feminism, Marxism, Method and the State: Towards A Feminist Jurisprudence", in *Signs: Journal of Women in Culture and Society* 8 (4): 635-58.

- Majmu'at Al Muhtamat bi Shu'un Al-Mar'at Al-Misriyah. 1988. Al-Huquq Al-Qanuniya Lil Mar-a Al-Misriyyah (Legal rights of the Egyptian Woman). Cairo: n.p.
- Makari, Victor E. 1983. Ibn Taymiyyah's Ethics. Chico, California: Scholars Press.
- Malinowski, Bronislaw. 1961. Argonauts of the Western Pacific. New York: E.P. Dutton.
- Malinowski, Bronislaw. 1967. A Diary in the Strict Sense of the Term. New York: Harcourt, Brace and World.
- Marcus, George E. and Fischer, Michael. 1986. Anthropology as Cultural Critique: An Experimental Moment in the Human Sciences. Chicago and London: University of Chicago Press.
- Markaz Al-Abhath wa Al-Dirasat Al-Sukaniyah. 1972. Al-Mar'at Al-Misriyah fi 'Ishrin 'Amm (Egyptian Woman Over Twenty Years): 1952-1972. Cairo: Markaz Al-Abhath wa Al-Dirasat Al-Sukaniyah.
- Markaz Dirasat Al Mar'a Al-Gedida. 1993. Al-Mar'a wa Al-Unf (Women and Violence), Special Issue of Al-Mar'a Al-Gedida (The New Woman), 5.
- Markaz Dirasat Al Mar'a Al-Gedida. 1993. Al-Mar'a wa Al-A'lam (Women and the media), Special Issue of Al-Mar'a Al-Gedida (The New Woman), 6.
- Markaz Dirasat Al Mar'a Al-Gedida. 1995. Al-Mar'a wa Al-'Aml (Women and work), Special Issue of Al-Mar'a Al-Gedida (The New Woman), 7.
- Marshall, Barbara L. 1994. Engendering Modernity: Feminism, Social Theory and Social Change. Boston: Northeastern Univ. Press.
- Marshall, T.H. 1964. Class, Citizenship and Social Development. New York: Doubleday.
- Marsot, A. L. 1978. "The Revolutionary Gentlewoman in Egypt", in Beck and Keddie (eds.), Women in the Muslim World.
- Marty, Martin and Scott Appleby (eds.). 1991. Fundamentalisms Observed. Chicago: University of Chicago Press.
- Marzouki, Illhem. 1988. "Le Voile des Colonisees: Tunisie, 1924-1936." In Institut des Belles Lettres Arabes 161:59-89.
- Mascia-Lees, Frances, Sharp, Patricia and Cohen, Colleen. 1989. "The Postmodernist Turn in Anthropology: Cautions from a Feminist Perspective", in *Signs*, Vol. 15, No.1: 7-33.
- Mawdudi, Abu Al-Ala. 1955. The Process of Islamic Revolution. Lahore.
- Mawdudi, Abu Al-Ala. 1983. The Laws of Marriage and Divorce in Islam. Safat, Kuwait : Islamic Book Publishers.

- Mayer, Ann Elizabeth. 1995. Islam and Human Rights: Tradition and Politics. Boulder: Westview Press.
- McAdam, Doug and David A. Snow. 1997. Social Movements: Readings on Their Emergence, Mobilization, and Dynamics. Los Angeles, Calif.: Roxbury.
- McCarthy, Thomas. "Practical Discourse: On the Relation of Morality to Politics" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.
- McCombs, Maxwell, Donald Shaw and David Weaver. 1997. Communication and Democracy: Exploring the Intellectual Frontiers in Agenda Setting Theory. Malwah, NJ: Lawrence Erlbaum Associates.
- McDonough, Sheila. 1984. Muslim Ethics: A Comparative Study of the Ethical Thought of Sayyid Ahmad Khan and Mawlana Mawdudi. Waterloo, Ontario: Wilfrid Laurier University Press.
- McNay, Lois. 1992. Foucault and Feminism: Power, Gender, and the Self. Cambridge: Polity Press.
- McNay, Lois. 2000. Gender and Agency: Reconfiguring the subject in Feminist and Social Theory. Cambridge: Polity Press.
- Meehan, Johanna. 1995. Feminists Read Habermas: Gendering the Subject of Discourse. New York: Routledge.
- Melchert, Christopher. 1997. The Formation of the Sunni Schools of Law, 9th-10th Centuries. C.E. Leiden: Koninklijke Brill.
- Mernissi, Fatima. 1987. Veil and Male Elite. Massachusetts: Perseus Books.
- Mernissi, Fatima. 1992. Islam and Democracy. Massachusetts: Addison-Wesley Publishing Co.
- Mernissi, Fatima. 1993. Forgotten Queens of Islam. Minneapolis: University of Minnesota Press.
- Mernissi, Fatima. 1996. Women's Rebellion and Islamic Memory. London: Zed Books.
- Mernissi, Fatima. 1991. Women and Islam : An Historical and Theological Enquiry. Oxford : B. Blackwell.
- Messick, Brinkley. 1998. "Written Identities: Legal Subjects in an Islamic State", in *History of Religions* 3 (1): 25-51.
- Metcalf, Barbara. 1990. Perfecting Women. Los Angeles: University of California Press.
- Meyers, Diana. 1997. Feminist Social Thought: A Reader. New York: Routledge.

- Mies, Maria. 1991. "Women's Research or Feminist Research? The Debate Surrounding Feminist Science and Methodology" in Beyond Methodology. ed. Mary Margaret Fonow and Judith A. Cook, 60-84. Bloomington: Indiana University Press.
- Migdal, Joel S. 1988. *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*. Princeton, NJ: Princeton University Press.
- Mill, John Stuart. 1965. The Principles of Political Economy in Collected Works ed.
- Miller, R. 1987. Fact and Method. Princeton: Princeton University Press.
- Millman, Marcia and Rosabeth Moss Kanter. 1987. "Introduction to Another Voice: Feminist Perspectives on Social Life and Social Science" in Feminism and Methodology. ed. Sandra Harding, 15-29. Bloomington: Indiana University Press.
- Mir-Hosseini, Ziba. 1993. Marriage on Trial: A Study of Islamic Law. London: I.B. Tauris & Co. Publishers.
- Mitchel, Timothy. 1988. Colonizing Egypt. New York: Cambridge University Press.
- Moghadam, Valentine. 1993. Modernizing Women: Gender and Social Change in the Middle East. Boulder and London: Lynne Rienner Publishers.
- Moghadam, Valentine. 1996. Identity Politics and Women. London: Zed Books.
- Moghadam, Valentine. 1994. Gender and National Identity. London: Zed Books.
- Moghissi, Haideh. 1999. Feminism and Islamic Fundamentalism. London: Zed Books.
- Mohanty, Chandra. 1988. "Under Western Eyes: Feminist Scholarship and Colonial Discourses", in *Feminist Review* 30 Autumn: 65-88.
- Mohanty, Russo and Torres. 1991. Third World Women and the Politics of Feminism. Bloomington: Indiana University Press.
- Molyneux, Maxine. 1998. "Analysing Women's Movements", in *Development and Change* 29: 219-45.
- Moore, Henrietta L. 1994. A Passion For Difference. Bloomington and Indianapolis: Indiana University Press.
- Morris, Aldon and Carol McClurg Mueller. 1992. Frontiers in Social Movement Theory. New Haven, Conn.: Yale University Press.
- Moussalli, Ahmad S. 1992. Radical Islamic Fundamentalism: the Ideological and Political Discourse of Sayyid Qutb. Beirut: American University in Beirut Press.
- Muhammed, Ahmed Taha. 1979. Al-Mar'at Al-Misriyah. Cairo: Matba'at Al-Ta'lif.

- Myrdal, Gunter. 1968. *Asian Drama: An Inquiry into the poverty of Nations*. Harmondsworth: Penguin.
- Najmabadi, Afsaneh. 1991. "Hazards of Modernity and Morality: Women, State and Ideology in Contemporary Iran", in Kandiyoti, Women, Islam and the State.
- Nasr, Seyyid Vali Reza. 1996. Mawdudi and the Making of Islamic Revivalism. Oxford: Oxford University Press.
- National NGO Committee for Population and Development (NCPD) - Gender Equity Subcommittee. 1995. *The Road from Cairo to Beijing*. Cairo: Dar El-Thaqqafa Press.
- Nedelsky, Jennifer. 1989. "Reconceiving Autonomy: Sources, Thoughts and Possibilities", in *Yale Journal of Law and Feminism* 1 (7): 7-36.
- Nedelsky, Jennifer. 1990. "Law, Boundaries, and Bounded Self" in *Representations* 30: 162-89.
- Nedelsky, Jennifer. 1993. "Reconceiving Rights as Relationship" in *Review of Constitutional Studies* 1 (1):1-26.
- Nelson, Cynthia. 1986. "The Voices of Doria Shafik: Feminist Consciousness in Egypt 1940-1960", in *Feminist Issues*, Fall 15-31.
- Nelson, Cynthia. 1988. "An Anthropologist's Dilemma: Fieldwork and Interpretive Inquiry", in *ALIF* 8: 53-65.
- Nelson, Cynthia. "Biography and Women's history: On Interpreting Doria Shafik", in Keddie and Baron (eds.), Women in Middle Eastern History: Shifting Boundaries in Sex and Gender. New Haven and London: Yale University Press.
- Nelson, Cynthia. 1996. Doria Shafik: Egyptian Feminist. Cairo: American University in Cairo Press.
- Nelson, Cynthia. 1998 "Feminist Expression as Self Identity and Cultural Critique: the Discourse of Doria Shafik", in Hawley (ed.), The Post-Colonial Crescent.
- NGOs' position paper on the draft Law of Associations. 1998. "Defending the Autonomy of Civil Associations" May 27. (<http://chrla.org/ngolaw/position.htm>)
- Nicholson, Linda (ed.) 1990. Feminism/Postmodernism. New York: Routledge.
- Nicholson, Linda and Steven Seidman, eds. 1995. Social Postmodernism: Beyond Identity Politics. New York: Cambridge Univ. Press.
- Nielsen, Joyce McCarl, ed. 1990. Feminist Research Methods. Boulder: Westview Press.
- Norton, Richard. 1995. Civil Society in the Middle East. Leiden: E.J. Brill.

- Oakley, Ann. 1981. "Interviewing Women: A Contradiction in Terms" in Doing Feminist Research. ed. H. Roberts. London: Routledge.
- Okely, Judith and Helen Callaway (eds.). 1992. Anthropology and Autobiography. London: Routledge.
- Okin, Susan. 1989. Justice, Gender and the Family. New York: Basic.
- Ong, Aihwa. 1988. "Colonialism and Modernity: Feminist Representations of Women in Non-Western Societies", in *Inscriptions*, Vol. 4, No.3.
- Paidar, Parvin. 1995. Women and the Political Process in Twentieth Century Iran. Cambridge University Press.
- Papanek, Hanna. 1994. "The Ideal Woman and the Ideal Society: Control and Autonomy in the Construction of Identity", in Moghadam (ed.), Identity Politics and Women.
- Patai, Daphne. 1991. "US Academics and Third World Women: Is Ethical Research Possible?" in Gluck and Patai, eds., *Women's Words*.
- Pateman, Carole. 1989. The Disorder of Women. Cambridge: Polity.
- Pateman, Carole. 1988. The Sexual Contract. Stanford: Stanford University Press.
- Pearl, David. 1998. Muslim Family Law. London : Sweet & Maxwell.
- Peters, F.E. 1994. A Reader on Classical Islam. Princeton: Princeton University Press.
- Peters, Julie and Andrea Wolper. 1995. Women's Rights, Human Rights: International Feminist Perspectives. New York and London: Routledge.
- Philipp, Thomas. 1978. "Feminism and Nationalist Politics in Egypt", in Keddie and Beck (eds), Women in the Muslim World.
- Philipp, Thomas. 1988. "Nation State and Religious Community in Egypt - the Continuing Debate", in *Die Welt des Islam* 28:378-91.
- Phillips, Anne. 1991. Engendering Democracy. Cambridge: Polity Press.
- Pringle, Rosemary and Sophie Watson. 1992. "Women's Interests and the Post-Structuralist State" in Barrett and Philips (eds.), Destabilizing Theory.
- Qutb, Sayyid. 1991. Milestones. Delhi-6: Markazi Maktaba Islami, 3rd edition.
- Rabinow, Paul. 1977. Reflections on Fieldwork in Morocco. Berkeley: University of California Press.
- Rabinow, Paul (ed.). 1984. The Foucault Reader: An Introduction to Foucault's Thought. London: Penguin.

- Radwan, Zaynab. 1988. Islam Wa-Qadaya al-Mar'ah. Cairo: al-Hay'ah al-Misriyah al-'Ammah lil-Kitab.
- Rahim, Abdur. 1994. The Principles of Islamic Jurisprudence. New Delhi: Kitab Bhavan.
- Rahman, Fazlur. 1966. Islam. Great Britain: Holt, Rinehart and Winston.
- Rai, Shirin and Geraldine Lievesley. 1996. Women and the State: International Perspectives. London: Taylor & Francis.
- Ramazanoglu, Caroline. 1989. Feminism and the Contradictions of Oppression. London: Routledge.
- Rassam, Amal. 1984. "Towards a Theoretical Framework for the study of Women in the Arab World" in Social Science Research and Women in the Arab World. London: Pinter.
- Ratib, Muhammad Faruq. 1988. Civil Rights in the Light of Islamic Legislation. Cairo: Aalam al-Kotob.
- Rawls, J. 1971. A Theory of Justice. Cambridge, MA: Harvard University Press.
- Redclift, Nanneke and M.Thea Sinclair (eds.). 1991. Working Women: International Perspectives on Labor and Gender Ideology. London: Routledge.
- Reinharz, Shulamit. 1992. Feminist methods in Social Research. Oxford: Oxford University Press.
- Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. 1999. The Power of Human Rights: International Norms and Domestic Change. New York: Cambridge University Press.
- Roded, Ruth. 1999. Women in Islam and the Middle East : A Reader. London : I.B. Tauris.
- Rorty, Richard. 1991. "Inquiry as Recontextualization: An Anti-Dualist Account of Interpretation" in The Interpretive Turn: Philosophy, Science, Culture. ed, D.R. Hiley, J.F. Bohman and R. Shusterman. Ithaca: Cornell University Press.
- Rosaldo, R.I. 1984. "Grief and a Headhunter's Rage: On the Cultural Force of Emotions", in E.M. Bruner (ed.). Text, Play and Story: The Construction and Reconstruction of Self and Society. Washington: American Anthropological Association.
- Roth, P.A. 1988. "Narrative Explanation: the Case of History" in *History and Theory*. Vol.27: 1-13.
- Roth, P.A. 1989. "How Narratives Explain" in *Social Research*. Vol. 56: 449-478.
- Rousseau, Jean Jacques. 1968. The Social Contract. Harmondsworth: Penguin Books.

- Rubin, Barry. 1991. Islamic Fundamentalism in Egyptian Politics. New York: St. Martin's Press.
- Rudolph, Susanne Hoeber. 1997. Transnational Religion & Fading States. Boulder, Colorado: Westview Press.
- Rupp, Leila. 1997. Worlds of Women: the Making of an International Women's Movement. Princeton, N.J. : Princeton University Press.
- Ryan, Mary P. "*Gender and Public Access: Women's Politics in Nineteenth Century America*" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.
- Sabbagh, Suha. 1996. Arab Women Between Defiance and Restraint. Olive Branch Press.
- Sahgal, Gita and Nira Yuval-Davis (eds.), 1992. Refusing Holy Orders: Women and Fundamentalism in Britain. London: Virago.
- Said, Edward. 1978. Orientalism. New York: Vintage Books.
- Said, Edward. 1997. Covering Islam: How the Media and the Experts Determine How We See the Rest of the World. New York: Vintage Books.
- Said, Edward. 1997. Culture and Imperialism. New York: Vintage Books.
- Saleh, Ibrahim. 1988. "The Writing of the 1971 Egyptian Constitution", Goldwin and Kaufman (eds.), Constitution Makers on Constitution Making. Washington: The American enterprise Institute.
- Salem, Norma. 1984. Habib Bourguiba, Islam and the Creation of Tunisia. London: Croom Helm.
- Salmon, Wesley. 1984. Scientific Explanation and the Causal Structure of the World. Princeton, N.J.: Princeton University Press.
- Sangren, Steven P. 1988. "Rhetoric and the Authority in Ethnography", in *Current Anthropology* Vol. 29, No.3, June.
- Sansarian, Eliza. 1982. *The Women's Rights Movement in Iran*. Praeger.
- Sawicki, Jana. 1991. *Disciplining Foucault: Feminism, Power and The Body*. London and New York: Routledge.
- Sayigh, Rosemary. 1996. "Researching Gender in a Palestinian Camp: Political, Theoretical and Methodological Questions," in Kandiyoti (ed.), *Gendering the Middle East*.
- Schacht, Joseph. 1964. An Introduction to Islamic Law. Oxford: Clarendon Press.

- Schlesinger, P. 1987. On National identity: Some Conceptions and Misconceptions Criticized", in *Social Science Information* 26 (2): 219-64.
- Schuler, Margaret (ed.). 1986. Empowerment and the Law: Strategies of Third World Women. Washington: OEF International.
- Schutz, Alfred. 1962. Collected Papers, Vol. 1. The Hague: Martinus Nijhoff.
- Scott, Joan. 1992. "Experience", in Butler and Scott (eds.), Feminists Theorize the Political. New York: Routledge.
- Seif El-Dawla, Aida. 1996. "Women's Rights in Egypt", in *WAF - Women Against Fundamentalism* 8: 25-8.
- Shaaban, Bouthaina. 1988. Both Right and Left Handed: Arab Women Talk About Their Lives. London: Women's Press.
- Shaarawi, Hoda. 1981. Mudhakarāt Hoda Shaarawi (Memoirs of Hoda Shaarawi). Cairo: Dar Al-Hila.
- Shaarawi, Shaykh Muhammad Mutawalli. 1980. Shaykh al-Shaarawi wa-al-mar'ah al-Muslimah. Cairo: Dar al-Sahwah.
- Shaarawi, Shaykh Muhammad Mutawalli. 1980. Al-Mar 'a Kama Aradaha Allah (The Woman as God Wanted Her to Be). Cairo: Maktabat Al-Quran.
- Shafik, Doria. 1955. Al-Mar'a Al-Misriyah Min Al-Faraunah ila Al-Yawm (The Egyptian Woman from the Pharaohs Until Today). Cairo: Matba'at Misr.
- Shaham, Ron. 1997. Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari'a Courts, 1900-1955. New York: E.J. Brill.
- Sharabi, Hisham. 1988. Neopatriarchy: A theory of Distorted Change in Arab Society. New York: Oxford University Press.
- Shea, William, ed. 1993. The Struggle Over the Past: Fundamentalism in the Modern World. Lanham, Maryland: University Press of America.
- Shihatah, 'Abd Allah Mahmud. 1984. Al-Mar'ah fi Al-Islam Bayna Al-madi Wa-Al-Hadir. Cairo: al-Hay'ah al-Misriyah al-'Ammah lil-Kitab.
- Shukrallah, Hala. 1994. "The Impact of the Islamic Movement in Egypt", in *Feminist Review* 47: 15-32.
- Silva, Pumaka L. de. 1995. "Studying Political Violence and Its Cultural Constructions", in *FOLK: Journal of the Danish Ethnographic Society*, Vol. 36.
- Singerman, Dianne. 1995. Avenues of Participation. Cairo: American University in Cairo Press.

- Siraj, Muhammad Ahmad. 1990. Al-Ahwal al-Shakhsyah fi alSshari'ah al-Islamiyah. Cairo: Dar al-Thaqafah lil-Nashr wa-al-Tawzi.
- Sivan, Emmanuel. 1985. Radical Islam Medieval Theology and Modern Politics. New Haven: Yale University Press.
- Smith, Dorothy E. "Women's Perspective as a Radical Critique of Sociology" in Feminism and Methodology. ed. Sandra Harding, 84-96. Bloomington: Indiana University Press.
- Smith, Dorothy E. 1987. The Everyday World as Problematic: A Feminist Sociology. Toronto: University of Toronto Press.
- Smith, Dorothy E. 1987. The Conceptual Practices of Power: A Feminist Sociology of Knowledge. Toronto: University of Toronto Press.
- Smith, Rigers. 1997. Civic Ideals. Conflicting Visions of Citizenship in U.S. History. New Haven : Yale University Press.
- Snow, David A., Louise A. Zurcher, and Sheldon Ekland Olseon. 1980. "Social Network and Social Movements: A Microstructural Aapproach to Differential Recruitment" in *American Sociological Review*. Vol. 45.
- Snow, David A., E. Burke Rochford Jr., Steven K. Worden, and Robert D. Benford. 1986. "Frame Alignment Process, Microbobilization and Movement Participation" in *American Sociological Review*. Vol. 51.
- Sobki, Amal. 1986. Al-Haraka Al-Nisa'iya fi Misr Mabayn Al-Tharwatayn (The Feminist Movement in Egypt Between the Two Revolutions). Cairo: Al Hay'a Al-Misriyah Al-Amma lil Kitab.
- Solh, Camillia Fawzi and Judy Mabro. 1994. Muslim Women's Choices: Religious Belief and Social Reality. Providence, R.I.: Berg.
- Sonbol, Amira. ,1996. Women, the Family, and Divorce Laws in Islamic History. Syracuse, N.Y.: Syracuse University Press.
- Sonbol, Amira. 1998. "Women's Witness and Other Fallacies." Paper presented to the faculty Workshop, Islamic Law and Gender: Interdisciplinary Approaches, Georgetown University, Washington D.C., Apr. 3.
- Stanley, Liz. 1990. "Feminist Praxis and the Academic Mode of Production" in Feminist Praxis: Research Theory and Epistemology in Feminist Sociology, ed. Liz Stanley. London: Routledge.
- Stanley, Liz and Sue Wise. "Method, Methodology and Epistemology in Feminist Research Processes" in Feminist Praxis: Research Theory and Epistemology in Feminist Sociology, ed. Liz Stanley. London: Routledge.

- Stanton, Elizabeth. 1898. Eighty Years and More. London: Source Book Press.
- Stowasser, Barbara (ed.). 1987. The Islamic Impulse. London: Croom Helm.
- Stowasser, Barbara. 1994. Women in the Quran, Traditions and Interpretation. Oxford: Oxford University Press.
- Stowasser, Barbara. "Liberated Equal or Protected Dependent? Contemporary Religious Paradigms on Women's Status in Islam." *Arab Studies Quarterly* 9, no.3 (Summer 1987): pp. 260-83.
- Strathern, Marilyn. 1987. "An Awkward Relationship Between Feminism and Anthropology", *Signs: Journal of Women in Culture and Society* 12 (2): 276-92.
- Sullivan, Dennis and Sana Abed Kotob. 1999. Islam in Contemporary Egypt: Civil Society vs. the State. London: Lynne Rienner Publishers.
- Sullivan, Earl L. 1986. Women in Egyptian Public Life. Syracuse: Syracuse University Press.
- Tadros, Marilyn. 1998. Rightless Women, Heartless Men: Egyptian Women and Domestic Violence. Cairo: Legal research and Resource Center for Human Rights.
- Talhami, Ghada Hashem. 1996. The Mobilization of Muslim Women in Egypt. Gainesville: University Press of Florida.
- Tarrow, Sidney G. 1998. Power in Movement: Social Movements and Contentious Politics. Cambridge, U.K.; New York: Cambridge University Press.
- Taylor, Charles. 1985. Philosophy and the Human Sciences. New York: Cambridge University Press.
- Tedlock, D. 1983. The Spoken Word and the Work of Interpretation. Philadelphia: University of Pennsylvania Press.
- Tilimsani, Umar. 1985. Al-Islam Wa-Nazratuhu Al-Samiyah lil-Mar'ah. Cairo: Dar al-I'tisam.
- Tignor, Robert. 1966. Colonial Modernization and British Rule in Egypt, 1882-1914. Princeton: Princeton University Press.
- Tong, Rosemary. Feminist Thought. Boulder: Westview Press.
- Toubia, Nahed (ed.). 1988. Women of the Arab World: The Coming Challenge. London: Zed Books.
- Tucker, Judith. 1993. Arab Women. Bloomington: Indiana University Press.
- Turner, Bryan. 1990. "Outline of a Theory of Citizenship" in *Sociology* 24 (2): 189-218.

- Turner, Bryan. 1994. Orientalism, Postmodernism and Globalism. London: Routledge.
- Visweswaran, Kamala. 1988. "Defining Feminist Ethnography", in *Inscriptions*, Vol. 4, No.3.
- Voet, Rian. 1998. Feminism and Citizenship. London: Routledge.
- Von Wright, G.H. 1971. Explanation and Understanding. Ithaca: Cornell University Press.
- Wadud Muhsin, Amina. 1999. Quran and Woman: Rereading the Sacred Text From a Woman's Perspective. Oxford: Oxford University Press.
- Walby, Sylvia. 1990. Theorizing Patriarchy. Oxford: Blackwell.
- Walby, Sylvia. 1994. "Is Citizenship Gendered?", in *Sociology* 28 (2) 379-95.
- Warner, Michael. "The Mass Public and the Mass Subject" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.
- Waylen, Georgina. 1996. Gender in Third World Politics. London: Westview Press.
- Webb, Gisela. 2000. Windows of Faith : Muslim Women Scholar-Activists in North America. Syracuse, NY : Syracuse University Press
- Weber, M. 1949/1977. "Objectivity in Social Science and Social Policy" in Understanding and Social Inquiry. ed, F. Dallmayr and T. A. McCarthy. Notre Dame: University of Notre Dame.
- Weber, M. 1949/1977. "Basic Sociological Terms" in Understanding and Social Inquiry. ed, F. Dallmayr and T. A. McCarthy. Notre Dame: University of Notre Dame.
- Westkott, Marcia. 1979. "Feminist Criticism of the Social Sciences" in *Harvard Educational Review*. Vol.49, No.4, pp. 422-430.
- Wilson, Bryan. 1970. Rationality: Key Concepts in the Social Sciences. New York: Harper & Row Publishers.
- Winch, Peter. 1990. The Idea of a Social Science. London: Routledge.
- Wizarat Al Talim. 1968. Al-Mithaq wa Taqriruh. Cairo: Dar Wa Matba'at Al-Shaab.
- Wizarat Al Talim. 1975. Al-Mara'at fi Misr. Cairo: Al-Matba'a Al-Amiriyah.
- Wizarat Al Tarbiyah wa Al Talim. 1968. Al-Mithaq wa Taqriruhu. Cairo: Dar wa Mataba Al-Shaab.
- Wolf, Eric (ed.). 1991. Religious Regimes and State Formation: Perspectives From European Ethnology. New York: SUNY Press.

Wright, Marcia. 1986. "Women in Peril: Reconstruction of Biography, Autobiography and Life Stories of Some African Women with Special Reference to Marriage." Paper presented at a conference on Autobiographies, Biographies and Life Histories of Women: Interdisciplinary Perspectives, University of Minnesota, May 23.

Yammani, Mai. 1996. Feminism and Islam: Legal and Literary Perspectives. NYU Press.

Young, Marion. 1990. Justice and the Politics of Difference. Princeton: Princeton University Press.

Yusuf, Al-Sayyid. 1998. Al-Mar'ah Wa-huququha Fi Manzur Al-Ikhwān Al-Muslimin. Cairo: Al-'Arabi Lil-Nashr Wa-Al-Tawzi'.

Yuval-Davis, Nira. 1991. "Citizenship Debate: Women, the State and the Ethnic Processes", in *Feminist Review* 39: 58-68.

Yuval-Davis, Nira. 1997. Gender and Nation. London: Thousand Oaks.

Zaki, Moheb. 1995. Civil Society and Democratization in Egypt, 1981-1994. Cairo: Dar El-Kutub.

Zaret, David. "Religion, Science and Printing in the Public Spheres in Seventeenth Century England" in Habermas and the Public Sphere. ed. Craig Calhoun. 1992. Cambridge, Mass.: MIT University Press.

Zayyad, Latiffa. 1996. The Search: Personal Papers. London: Quartet Books.

Zilfi, Madeline C. 1997. Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era. New York: Brill.

Zubaida, Sami. 1988. Islam, the People and the State. London: Routledge.

Zubaida, Sami. 1993. Islam, The People and The State: Political Ideas and Movements in the Middle East. London: I.B. Tauris.

Zuhur, Sherifa. 1992. Revealing Reveiling. New York: SUNY Press.

Zuhur, Sherifa. 2000. "Personal Status Law 2000." in <http://www.geocities/Egypt/women/html>

Zulificar, Mona. 1993. The Egyptian Woman in a Changing World. Cairo: New Civic Forum.

Zulificar, Mona. 1995. Women in Development: A Legal Study. Cairo: UNICEF.

Zulificar, Mona. 1995. “*Wad’e Al-Mar’a Al-Misriyyah Fi Daw’ah Al-Ittifaqiyya Al-Dawliyya lil Qada’ ‘ala Kafat Ashkal Al-Tamyeez did Al-Mar’a* (The Poistion of Egyptian Women in Light of the International Convention for the elimination of All Forms of Discrimination Under Women)”, in Abdalluh (ed.), *Al-Wa’y Al-Qanuni*.

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

APPENDICES

Appendix 1

Egyptian Legal System

Legal System/History	<p>Based on Islamic law and civil law (particularly French codes). Egypt attained independence from Ottoman Empire in matters of legal and judicial administration in 1874. Judicial reform began in 1875, leading to establishment of <i>mukhtalatat</i> (mixed) and <i>ahli</i> (national) courts. As Egypt increasingly came under foreign influence, legal system began resembling European systems to a greater extent.</p> <p>From 1920 to early 1950s, Egyptian legislature enacted several laws effecting important changes to family law. Controversial emergency decree issued by Sadat in 1979 introduced extensive changes to the two Egyptian Laws of Personal Status of 1920 and 1929. In May 1985, the 1979 Law was struck down by High Constitutional Court on technical grounds and declared <i>ultra vires</i> the Egyptian Constitution. Several changes made by 1979 Law were reintroduced and some new provisions added in Personal Status (Amendment) Law (no. 100/1985) enacted a few months after verdict. The Personal Status Law was again amended on 27th January 2000.</p>
School(s) of <i>Fiqh</i>	Hanafi majority; significant Coptic Christian minority.
Constitutional Status of Islam(ic Law)	Constitution adopted 11 th September 1971; Article 2 affirms Islam as state religion; amended in 1980 to add recognition of the principles of Islamic jurisprudence as the principal source of legislation.
Court System	<i>Sharia</i> courts integrated into national court system in 1956. Family law applied within National Courts by judges trained in <i>Sharia</i> (separate family chambers for Copts). Appeals go through regular courts, to Court of Appeals and then to Court of Cassation.
Relevant Legislation	<p>Law concerning Maintenance and some provisions in Personal Status (no. 25/1920)</p> <p>Law on Marriage Age (no. 56/1923)</p> <p>Decree concerning provisions in Personal Status (no. 25/1929)</p> <p>Law of Bequest (no. 71/1946)</p> <p>Civil Code (no. 131/1948)</p>

	<p>Personal Status (Amendment) Law (no. 100/1985), subsequently amended on 27 January 2000</p> <p>also:</p> <p>Law of Inheritance (no. 77/1943)</p> <p><i>Sharia</i> Courts and Community Tribunals (Abolition) Law 1955</p> <p>Law modifying some rulings on maintenance (no. 62/1976)</p>
<p>Notable Features</p>	<p>Marriage Age: 18 for males and 16 for females (lunar calendar)</p> <p>Marriage Guardianship: governed by Civil Code; <i>wali</i> cannot prevent ward from marrying for reasons of status, amount of dower, etc.; judge may authorise marriage if <i>wali</i> refuses</p> <p>Marriage Registration: obligatory registration a legal requirement though it does not determine validity of marriage, thus judges shall not hear cases in which parties have not reached minimum marriage age or in which matrimony is denied and parties have no documentation</p> <p>Polygamy: notification of existing and intended wives required; existing wife can petition for divorce if she sustains such harm as makes cohabitation as husband and wife impossible (up to one year from date of her knowledge of the polygamous marriage)</p> <p>Obedience/Maintenance: deviation from classical Hanafi law relating to arrears of maintenance which are deemed a debt against husband from the date he fails to maintain until debt is paid or excused; claims for maintenance not to be heard for past period exceeding one year from date of claim; wife's leaving the home for lawful work not deemed disobedience so long as she does not abuse this right or it is not contrary to interests of her family, with proviso that husband has not asked her to refrain from exercising right to work</p> <p>Talaq: <i>talaq</i> expressed indirectly, while intoxicated or under coercion, or conditionally with coercive intent is ineffective; repudiation to which a number is added verbally or by gesture effective only as single revocable <i>talaq</i> (except third of three); written and notarised certification of <i>talaq</i> must be obtained within 30 days of repudiation and notary must forward copy of certificate to wife; certain financial effects of <i>talaq</i> suspended on her knowledge thereof if husband is found to have concealed it</p> <p>Judicial Divorce: wife may obtain judicial divorce on following</p>

	<p>grounds: serious or incurable defect of the husband (unless woman married in full knowledge of such defect or defect occurred after the contract and she implicitly/explicitly accepted it), harm making cohabitation as husband and wife impossible, if harm is proved and reconciliation efforts fail, material or moral harm if husband marries polygamously and such harm makes cohabitation as husband and wife impossible (up to one year from date of her knowledge of the polygamous union), husband's absence for a year or more without reasonable justification; husband's imprisonment for three years or more, after one year of sentence has passed, non-payment of maintenance; and discord if reconciliation efforts fail, with financial settlement proportionate to allocation of blame as determined by arbitrators; wife may also obtain a divorce on the grounds of incompatibility, but will not lose all financial claims against her husband; a divorce requested by wife on the grounds of incompatibility must be granted within six months</p> <p>Post-Divorce Maintenance/Financial Arrangements: divorcée repudiated by husband without cause or consent on her part entitled to compensation (<i>mut'a al-talaq</i>) of at least two years' maintenance (no maximum stipulated); maintenance claims for 'idda not to be heard after one year from date of divorce; divorcing husband required to provide independent accommodation for former wife having custody of their minor children</p> <p>Child Custody and Guardianship: divorced mother's custody ends at 10 years for boys and 12 years for girls; judge may extend custody to 15 years for boys or until marriage for girls if ward's interests so require</p> <p>Succession: 1946 Law introduced 'obligatory bequest' (<i>wasiyya wajiba</i>) for descendants of predeceased sons (how low soever) and daughters, as well legalised bequests to heirs, and extended doctrine of <i>radd</i> (return) to allow spouse relict to share in residue of estate</p>
<p>Notable Cases</p>	<p>Case no. 29/1980 Badari Court of Summary Justice for Guardianship of the Person (<i>Mahkama Juz'iyya li'l-Wilaya 'ala'l-Nafs</i>) precipitated 1985 decision of High Constitutional Court (<i>al-Mahkama al-Dusturiyya al-'Ulya</i>) that implementing resolution of Law no. 44/1979 ('Jihan's Law') was unconstitutional on technical grounds as initial emergency decree by which Sadat implemented the legislation was issued in absence of true state of emergency, and so was invalid.</p>

	<i>Hisba</i> suit against Professor Abu Zayd to divorce him from his wife on basis of his alleged apostasy, ultimately upheld by Supreme Court; led to passage of Law no. 3/1996 preventing claims by private individuals on basis of <i>hisba</i> .
Law/Case Reporting System	Law reporting in <i>al-Jarida al-Rasmiyya</i> . Case reports of Court of Cassation (<i>mahkama al-naqd</i>) decisions in civil and criminal cases published since 1949; six volumes issued annually. Practitioners' and judges' indexes of cases compiled less frequently. Supreme Constitutional Court decisions published since 1979. Practitioners' collections of principles in court rulings on <i>Sharia</i> and personal status matters also compiled.
International Conventions (with Relevant Reservations)	ICCPR & ICESCR – signature 1967, ratification 1982 with general declaration relating to the provisions of the <i>Sharia</i> not conflicting with the text annexed to the instrument CEDAW – signature 1980, ratification 1981 with reservations to Arts. 9(2), 16, 29(2) & 2 CRC – signature & ratification 1990 with reservations regarding any provisions relating to adoption, particularly Arts. 20 & 21

Legal History:

The legal system is based on Islamic law and civil law (particularly French codes). Egypt attained independence from the Ottoman Empire in matters of administration of law and the judiciary in 1874. A reformist movement developed in the late 19th century, led by such prominent thinkers and commentators as the Grand *Mufti* Muhammad ‘Abduh, Rashid Rida, and Qasim Amin. Changes in

the interpretation and application of family law were an important part of the reformists' agenda.

The reform of the judicial administration began in 1875, leading to the establishment of *mukhtalatat* (mixed) and *ahli* (national) courts. As Egypt increasingly came under foreign influence, the legal system began resembling European systems to a greater extent. New legislation relating to penal, commercial and maritime law also reflected the growing influence of Europe, but personal law remained unreformed until 1920. (The renowned jurist Qudri Pasha prepared an unofficial code of personal status law based on the *rajih* (majority, dominant) views of the Hanafi school, a source still referred to in the *Sharia* courts of some neighbouring states as a guide to Hanafi law.)

The *Sharia* courts were integrated into the National Courts in 1956. There are judges trained in *Sharia* presiding over family law cases within the National Courts. Appeals are heard by regular judges in the Court of Appeals and then the Court of Cassation.

From 1920 to the early 1950s, on the basis of recommendations made by several committees, the Egyptian legislature enacted a number of laws effecting important changes in legal principles relating to family law and succession. These included the Law of Maintenance and Personal Status (Law no. 25/1920), a law regulating minimum marriage age (Law no. 56/1923), a Law of Personal Status (Law no. 25/1929) on the dissolution of marriage and family disputes, the Civil Code of 1931, the Law of

Inheritance (Law no. 77/1943), and the Law of Bequest (Law no. 71/1946). In 1976, a new law established rules for the enforcement of court-orders for payment of maintenance to wives, ex-wives, children and parents.

Through the 1960s and 1970s, despite various reports and proposals relating to legal reform, political events time and again pre-empted the enactment of new laws in this area. Finally, in 1979, after failing to achieve any consensus on matters of family law, Sadat unilaterally issued an emergency decree passing one of the proposals into law in 1979. Law no. 44/1979 was popularly referred to as 'Jehane's Law' or 'Jiji's Law'. This controversial amendment introduced extensive changes to the two Egyptian Laws of Personal Status of 1920 and 1929, drawing from the interpretations of scholars of all four Sunni schools of law.

In May 1985, the 1979 law was struck down by the High Constitutional Court of Egypt on technical grounds and declared *ultra vires* the Egyptian Constitution; the initial emergency decree issued by Sadat had been issued in the absence of a true state of emergency and so was deemed invalid. A few months after the verdict, a Personal Status (Amendment) Law (Law no. 100/1985) was enacted to revise the 1920 and 1929 Laws on Personal Status. A number of the changes made by the 1979 law were reintroduced as well as some new provisions added. One element that was conspicuous by its absence in the 1985 legislation was the wife's automatic right to a divorce from her husband if he married polygamously. As a concession to religious conservatives, the presumption of

injury occasioned by a polygamous marriage was removed, requiring the wife to establish that she has suffered harm from her husband's polygamous union if she wishes to divorce. Thus, the ground for divorce was no longer automatic but was left up to the discretion of the courts, as being the wife of a polygamous husband was no longer automatically equated with "harm" (constituting a return to the classical position).

The second compromise related to the requirement that the divorced wife in custody of minor children had exclusive rights to the rented marital home for as long as she retained custody (unless her former husband provided another dwelling). While the requirement to provide accommodation for the custodial mother was retained in the 1985 legislation, the former husband was given exclusive rights over his unrented dwelling.

The Law of Personal Status was again amended in January 2000, giving women more options for divorce.

Schools of *Fiqh*: The Hanafi school is the predominant school of *fiqh*. Earlier on, Egypt was the home of the Shafie school and under the Fatimids, the ruling classes were Ismaili. There is also a significant Coptic Christian minority in Egypt.

Constitutional Status of Islam(ic Law): The Constitution was adopted on 11 September 1971 and amended by referendum in May 1980. The amendment made Islamic law 'the principal source of legislation' in Egypt. Article 2 of the Constitution reads in full: "Islam is the religion of the State and Arabic its official language. Islamic jurisprudence is the principal source of legislation."

Court System: *Shari'a* courts were integrated into the national court system in 1956.

Family law is administered within the National Courts by judges trained in *Sharia* (with separate judges for and legislation applicable to cases involving Copts and Muslims).

Appeals are heard by regular judges in the Courts of Appeal and, ultimately, the Court of Cassation.

Notable Features: There are a number of enactments relating to personal status, though the core of family law is formed by Laws no. 25/1920 and no. 25/1929 as amended by Law no. 100/1985. The Civil Code (no. 131/1948) drafted by Professor 'Abd al-Razzaq al-Sanhuri, the renowned Egyptian jurist who played a role in the drafting of legislation in a number of Arab states during the 1940s and 1950s, does not cover family law or succession, but does govern majority and civil status; Article 280 of the Civil Code directs that recourse should be had to the most appropriate opinion from the Hanafi school in the absence of any textual provision in the legislation.

The minimum marriage age is 18 for males and 16 for females (lunar calendar).

Registration is compulsory but does not determine the validity of marriage. Courts may not hear cases where the parties have not attained the minimum marriage age, or where claim of marriage is disputed and there is no official documentation.

Guardianship is governed by the Civil Code but does not extend to the power of compulsion in marriage; a *wali* cannot prevent his ward from marrying for reasons

relating to social status or the amount of dower, for example, as judges may authorise marriages if *walis* refuse.

Maintenance is due from the date of a valid marriage contract and valid retirement unless the wife apostasies, denies her husband conjugal rights without justification, or leaves the matrimonial home without his permission (except for circumstances permitted by rules of the *Sharia*). However, leaving the home for lawful work does not constitute disobedience so long as the wife does not abuse this right, it is not contrary to the interests of her family, and her husband has not explicitly asked her to refrain from working.

Maintenance is deemed to be a debt against the husband from the date that he fails to maintain until the debt is paid or excused, and claims for arrears of maintenance may not be heard for a period exceeding one year from the date of the claim.

Polygamy is permissible, with notification of the existing and intended wives. The existing wife of may obtain a judicial dissolution on grounds of material or moral harm up to one year from the date of her knowledge of her husband's polygamous union if such harm makes cohabitation as husband and wife impossible.

Talaq expressed indirectly, while intoxicated or under coercion, or conditionally with the intent of forcing the taking of some action has no effect. A *talaq* to which a number is added verbally or by gesture is effective only as a single and revocable *talaq*, except for

the third of three, *talaq* before consummation or in consideration of payment. A written and notarised certification of *talaq* must be produced within thirty days of repudiation and the notary must forward a copy of the certificate to the wife. Certain financial effects of *talaq* are suspended on the wife's knowledge of the repudiation if the husband is found to have concealed it.

The wife may obtain an irrevocable judicial divorce on the following grounds: serious or incurable defect of the husband (unless the woman married in full knowledge of the defect or it occurred after the contract and she implicitly or explicitly accepted it); harm making cohabitation as husband and wife impossible (if the harm is proved and reconciliation efforts fail); material or moral harm if the husband marries polygamously (subject to the aforementioned conditions); non-payment of maintenance; the husband's imprisonment for three years or more (after one year of the sentence has passed); and discord, if reconciliation efforts fail, with a financial settlement proportionate to the allocation of blame as determined by the arbitrators. A woman can also seek a divorce on the grounds of incompatibility, but in such case she forfeits all financial claims against her husband.

A divorcée repudiated by her husband without cause or consent on her part is entitled to maintenance during her '*idda* and compensation (*mut'a al-talaq*) of at least two years' maintenance (with consideration for the husband's means, the circumstances of the divorce, and the length of the marriage); no upper limit for compensation is stipulated. Maintenance claims for the '*idda* period can be heard up to one year from the date of the

divorce. A divorcing husband must provide independent accommodation for his former wife who has custody of their minor children.

The divorced mother is entitled to custody of boys until the age of 10 and girls until the age of 12. Custody may be extended till the age of 15 for boys and till marriage for girls if the judge deems such an extension to be in the best interests of the ward.

On succession, notable reforms introduced by legislation in 1946 legalized bequests to heirs, and also established 'obligatory bequests' to benefit descendants of predeceased sons (how low soever) and daughters. The doctrine of *radd* was also extended to allow the spouse relict to share in the residue of the deceased spouse's estate.

Notable Cases: Case no. 29 of 1980 in the Badari Court of Summary Justice for Guardianship of the Person (*Mahkama Juz'iyya li'l-Wilaya 'ala'l-Nafs*) precipitated the 4th May 1985 judgement of the High Constitutional Court (*al-Mahkama al-Dusturiyya al-'Ulya*) that the implementing resolution of Law no. 44/1979 ('Jihan's Law') was unconstitutional on technical grounds as the initial emergency decree by which Sadat implemented the legislation was issued in the absence of a true state of emergency.

A 1993 *hisba* suit before the Giza Court of First Instance called for divorcing Professor Nasr Abu Zayd from his wife on grounds of his alleged apostasy. The Giza Court dismissed the suit and the petitioners appealed to the Cairo Court of Appeal (Department

of Personal Status). The Appeals Court ruled in favour of the petitioners, and the case was brought before the Supreme Court in 1995. The Supreme Court ruled for divorcing Professor Abu Zayd from his wife. The case led to the passage of Law no. 3/1996 preventing claims by private individuals on the basis of *hisba*.

Law/Case Reporting System: Laws are published in *al-Jarida al-Rasmiyya*. Case reports of civil and criminal judgements of the Court of Cassation are published six times annually. Judges and practitioners' indexes and summaries of the same are compiled less frequently. Practitioners' collections of principles in court rulings on *Sharia* and personal status matters are also compiled.

International Conventions (with Relevant Reservations): Egypt signed the ICCPR and ICESCR in 1967 and ratified them in 1982. Egypt submitted a general declaration relating to the provisions of the *Sharia* not conflicting with the text annexed to the instrument(s).

Egypt signed the CEDAW in 1980 and ratified it in 1981. One of the reservations submitted by Egypt relates to Article 9(2) on gender equality in nationality rights. "It is clear that the child's acquisition of his father's nationality is the procedure most suitable for the child and that this does not infringe upon the principle of equality between men and women, since it is customary for a woman to agree, upon marrying an alien, that her children shall be of the father's nationality." The next reservation is to Article 16 relating to gender equality in family relations. The reservation relates to the status of the *Sharia*; Article 16 is accepted insofar as it does not prejudice *shar'i* provisions whereby women

are granted rights "equivalent" to men's rights in order to "ensure a just balance between them." The reservation is made "out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementarity which guarantees true equality between the spouses." The reservation to Article 2 states that, although "Egypt is willing to comply with the content of this article," it is with the proviso that "such compliance does not run counter to the Islamic *Sharia*".

Egypt signed and ratified the CRC in 1990. Egypt submitted a general reservation concerning areas of conflict between the *Sharia* (as one of the fundamental sources of Egyptian positive legislation) and the CRC, particularly in relation to provisions on adoption in Articles 20 and 21.

Appendix 2

DECREE LAW 25 OF THE YEAR 1920 CONCERNING CERTAIN PERSONAL STATUS PROVISIONS

Divorce on grounds of failure to provide financial support. Articles 4, 5, and 6 of the law 25/1920 organize the request for divorce on these grounds.

Article 4:

If the husband refrains from spending on his wife, if he has an evident source of money then the alimony should be paid out of this money, if he has no money and does not claim that he has no money, refuses and insists on not spending then the judge can legally divorce the wife. If he does not prove his inability to spend then the judge here also legally divorces the wife. If he proves by official documents his inability to spend then the judge can give not more than one month to settle his situation, otherwise the judge orders a divorce.

Article 5:

If the husband is away for a short period, if he has an evident source of money then the judge orders that the alimony be paid from his money.

If he has no evident source of money the judge can give him a chance to pay within a given period of time, either by sending the money to his wife or by returning back to spend on her, the judge has the right after this period ends to give a divorce.

If he is away and unreachable for any reason or if he has disappeared and it is proven that he has no money then the judge orders the divorce. The article also applies to husbands who are in prison and cannot spend on their wives.

Article 6:

If the divorce for not spending occurs without the husband's knowledge, the husband still has the right to return to his wife again if he can spend on her, this can happen during the continence period (*iddah*) if he does not then the divorce case is valid.

Article 6 of law 25/1920 gives the judge legislative authority to evaluate the husband's financial situation in order to regain his wife, since divorce on the grounds of lack of financial support is revocable and not final. The judge has the right to evaluate the situation and the seriousness of the husband's intention by asking him to pay her two months' alimony. The judge can then order the reconsideration of the divorce.

Therefore, the wife who obtains a divorce on the grounds of the husband's refusal to pay financial support gets a temporary divorce since the judge may order the reconsideration of the divorce. In most cases where divorce is obtained on the grounds of lack of financial support this is, in fact, not the major reason for the divorce; rather, there are other underlying reasons which are more difficult to prove. The judge's discretionary power here plays a very important role since the wife normally has many reasons to request a divorce.

Problems between the couple and divorce on the grounds of bodily harm (articles 6, 7, 8, 9, 10, and 11 of the law 25/1929).

Article 6 states that if the wife claims that her husband has harmed her to the extent that it is impossible for their marital life to continue, then she can apply for a divorce. If the harm is proven and if it is impossible to reconcile, the judge grants her an irrevocable divorce (ba'in) after which she can never return to her husband.

If the demand is refused and if the complaint is repeated and the harm is not proven, the judge can send two arbitrators in accordance with articles 7, 8, 9, 10, and 11. Article 7 states that the two arbitrators must be honest and members of the couple's families if possible. If this is not possible, then they should have the experience and ability to reconcile the couple. Article 8 states that the decision to send the arbitrators must include the date they start and end their mission. The mission should not exceed six months and both the arbitrators and the couple should be informed. The two arbitrators should swear to pursue their mission in the utmost justice and honesty. The court may give the arbitrators an extension of not more than three months to submit their report. If they do not do so then it is assumed that they are unable to come to an agreement. Article 9 states that the mission of the two arbitrators should not be affected by the refusal of husband or wife to attend the reconciliation meeting. The two arbitrators should look in depth at the reasons for the problems between the couple and try by all means to solve them.

Article 10 states that if the two arbitrators fail in their mission to repair the problem, the outcome is as follows:

1. If they find that all the harm is caused by the husband then they should suggest that the divorce be irrevocable (ba'in) and that the wife get all her legal rights, such as alimony.
2. If the blame is attributed to the wife, the arbitrators should suggest a divorce. The arbitrators will determine a reasonable amount of compensation which the wife must pay to the husband.
3. If the blame is mutual then they should suggest a divorce without compensation or with compensation in proportion with the blame of each spouse.
4. If the arbitrators cannot determine blame, they should suggest a divorce without compensation.

Article 11 states that the two arbitrators should present their report to the court covering the whole situation. If they differ in opinion, the court sends a third arbitrator who has the experience and ability to achieve a reconciliation. He too is sworn in according to article 8. If the two arbitrators disagree and do not submit their report on time the court continues in its process. If it fails to reconcile the couple, it is proven that life is impossible between them and the wife insists on the divorce the court gives her an irrevocable (ba'in) divorce. All or some of her financial rights are dropped and she may be asked pay compensation.

An amendment to article 11 was made by law 100/1985, stating that the husband should declare his marital situation in his marriage contract. If he is married he must state in the declaration the name of his wife or wives to whom he is still married as well as their

addresses. The wives should be informed of the new marriage by an officially registered letter sent to their homes. The wife whose husband marries another woman has the 'right to ask for a divorce if this marriage causes her financial or moral harm, even if this was not mentioned in her marriage contract. If the judge fails to repair between them, he divorces her irrevocably (ba'in). The wife's right to ask for a divorce ceases after one year of her being officially informed of the husband's new marriage. Her right to ask for a divorce is renewed every time he remarries. If the new wife does know of his previous marriage she also has the right to ask for a divorce.

Article 6 of the law 25/1929 does not identify the harm that the husband can cause to his wife. The jurisprudence of cassation has identified the causes of the husband's harm to his wife as verbal or physical harm that occurs in a manner that does not suit anyone in her position. The amount of harm must be evaluated by the court, and verified with proofs. This harm should result in the impossibility of the continuity of married life between the couple. Here the harm can differ between cultures and classes.¹

Contradiction of legal rules.

The law has given discretionary power to the judge to estimate the amount of harm that makes life impossible and allows for divorce. This can lead to contradictory legal rulings, due to the judges' attitudes and the different indicators used for women of different

¹ This law, which has the result that low-status women may have to put up with more abuse than high-status women, is based on the logic that since violence is common, then it must be just. For instance, the judge can rule that moderate physical violence towards the wife may not be considered harm among more traditional rural groups where the norm and ideology gives such a right to the husband. However, the same amount of violence in a middle class home may be considered excessive. The determination of the level of harm "normally" endured by individuals of a particular social group is particularly problematic in a socially

classes. There are also contradictory principles regarding what is considered harm. For example:

- Principle 22. The wife should not be harmed by her husband's bad manners because this does not directly harm her.
- Principle 31. The husband's aggression toward any of his wives is considered a harm that would allow divorce.
- Principle 43. The husband's abnormal sexual behavior (homosexuality) is considered harmful to the wife.
- Principle 47. The repetitive occurrence of difference is an indication of the impossibility of the continuation of the marriage.
- Principle 57. The occurrence of crimes between the families of the couple does not allow her to ask for a divorce even if she is afraid of being severely harmed, if she was not present in the house at the time the crimes occurred.
- Principle 59. The return of the wife back to the house after the harm has occurred is an indication that life can continue between the couple.

These principles are contradictory. For example, principles 22 and 31, which do not consider the bad manners of the husband an evidence of harm, contradict with principle 47.

As well, principles 31 and 57 do not consider the husband's aggression toward the wife's family cause for divorce because the harm should affect the wife personally, either

mobile society, as Egypt is, where one's current situation and one's aspirations are not necessarily the

physically, or morally, in terms of her dignity and pride. Yet given the importance and strength of family alliances for women especially, the law's failure to recognize violence towards the wife's family as grounds for divorce damages her dignity, pride, and moral well-being.

Principle 47 considers the reoccurrence of conflicts to be an indication of the impossibility of the continuity of married life. This conflicts with Court Order 785/1972 which states that the reoccurrence of difference and court cases were not enough evidence of the impossibility of married life and the judge has the authority to evaluate the deeds which constitute harm toward the woman, taking into consideration the social status of the family. Preliminary Court Order 494/1972 states that the beating of the wife did not constitute grounds for divorce, since her social class (not being high enough) permitted this. In another case (Court Order 785/1972 [South]), the judge refused to give the wife her divorce on the basis that the husband's witness, an army general, said that the husband comes from a high social class and cannot behave badly.

Article 11 (repeated) of law 100/1985 states that the wife may ask for a divorce if her husband marries another woman, but that she must prove the financial and moral harm caused by the subsequent marriage. Here again the judge has the authority to evaluate the amount of harm in accordance with the social class of the wife.

Article 12 states that if the husband is absent for a year or more with no acceptable excuse, the wife then has the right to ask the court for a divorce. The judge has the

same.

authority to grant her an irrevocable divorce if this absence caused her harm and if her husband was capable of supporting her.

Article 13 states that if it is possible to reach the husband the judge must warn him and give him a chance to respond. He should also warn the husband that if he does not return to live with his wife or bring her to live with him then she has the right to divorce. If the period stated by the judge ends without any action on the husband's part, or the acceptance of his excuse by the judge, then the judge may grant the wife an irrevocable divorce. If it is impossible to reach the husband the judge may order the divorce. The authority of the judge to grant a divorce on the grounds of the husband's absence depends largely on the excuse presented by the husband for his absence. Therefore, in cases where the husband has been reached and warned of the court case and given the opportunity to provide an excuse to the judge, the wife may not receive her divorce. The law mentions clearly that the judge should apply the text of the law regarding the reasons for the husband's absence.

The explanatory notes of law 25 of 1929 elaborate on the following points: the conditions of the husband's absence; the judge's ruling on the legitimacy of absence; and the nature of prejudice caused to the woman by the absence of her husband. The law states that the husband is considered absent only if he resides for a period of one year in a city other than the city where the conjugal home is located. Legitimate reasons for absence include study, business, or lack of transportation. The husband must show proof that these circumstances prevent him from living with his wife and from asking her to join him at

his residence. Nonetheless, and even if the husband shows that his absence can be imputed to a legitimate cause, the judge has the ultimate power to decide if, by his absence, the husband had the intention of causing harm to his wife. Finally, the prejudice caused to the wife resulting from the absence of the husband is sexual, since the husband must continue to provide her with financial support. The wife must therefore show proof of the absence of her husband and that this absence jeopardizes her chastity.

Appendix 3

DECREE LAW NO. 25 OF THE YEAR 1929 AS AMENDED BY LAW NO. 100 OF THE YEAR 1985

CONCERNING CERTAIN PERSONAL STATUS PROVISIONS ¹

Following the preamble:

WE DECREE THE AMENDMENTS HEREBELOW:

1 -DIVORCE

ARTICLE 1:

A DIVORCE which takes place by an inebriate or a coerced divorcer shall not be valid.

ARTICLE 2:

A non-consummate divorce shall not take place if it is only meant to induce and actuate to do something or desist from doing it.

ARTICLE 3:

A DIVORCE which is pronounced coupled with a number, whether uttered or by signs, shall only take place as being a single divorce (not complete).

ARTICLE 4 :

DIVORCE metonymies which bear probabilities of divorce and other likelihoods, shall result in divorcing only if they are meant to take place as a divorce.

ARTICLE 5:

All divorce shall be revocable except a divorce that takes place for a third time., and a divorce that occurs before consummation of marriage, and also a divorce taking place in return for money, all of which are termed as complete and absolute divorce under the present law no. 25 of the year 1920.

ARTICLE 5 (bis-2)²:

A DIVORCER shall notarize his divorce attestation and written Certification, at the Notary's Office of Jurisdiction, within thirty days from the date of an occurring divorce.

A DIVORCEE wife shall be considered as aware of the divorce if she attends the notarization of such attestation. If she does not attend it, the notary shall announce the occurrence of her divorce, personally to her, via a bailiff. The NOTARY shall also deliver to the divorcee or her representative a copy of the divorce attestation, according to the procedures whereby a decree shall be issued by the Minister of Justice.

The effects of a divorce shall result and take place from the date of its occurrence, unless the husband conceals the fact of such divorce from the wife ³ in which case

¹ (page-1) Egyptian Wakaeh, issue 27, page 2, dated 25 March, 1929

² (page-1) Added by virtue of law no. 100 of the year 1985, Official Journal Issue no. 27 (adjunct) dated 4 July, 1985.

³ (page-2) Corrected by the rectification published in Official Journal Issue no.33 dated 15 August, 1985.

the effects thereof, in terms of inheritance and other financial rights, shall not take place except from the date she learns of her divorce.

2 -DISCORD BETWEEN THE SPOUSES AND DECREERING THE DIVORCE FOR HARM SUSTAINED

ARTICLE 6:

If the wife claims being harmed by her husband such that it would be impossible to continue living together by such spouses, she may then resort to the COURT and seek a court decree disuniting and separating them. The Court shall then pronounce a court decree announcing her as completely divorced, if the harm caused to her is established, and the COURT has been unable to make peace between them. If her request is refused by the Court and the complaint keeps recurring, without evidence of established harm, the Court shall then send two arbitrators, and pronounce its judgement in the way prescribed in articles (7, 8, 9, 10, and, 11.)

ARTICLE 7⁴:

The two arbitrators shall be equitable and fair, and kin of the spouses if possible, otherwise they shall be among others than the kin, and shall have experience of similar cases and the ability to make peace between them.

ARTICLE 8 ⁵:

A) The decision to send the two arbitrators shall comprise the date of beginning and terminating their assignment, providing it shall not exceed a period of SIX MONTHS. The Court shall notify the arbitrators and the litigants of such appointment and date of the assignment, and shall also administer the oath to each of the two arbitrators that they shall both fulfil their missions fairly and equitably.

B) The Court may grant the two arbitrators only one extension of the period, which shall not exceed three months, and if they fail to submit their report, the Court shall then consider them as being in discord.

ARTICLE 9 ⁶: The process of the ARBITRATORS' work shall not be affected by the refrainment of either spouse to attend the arbitration council's session, once such Spouse has been notified of holding the council's session.

The ARBITRATORS shall identify the causes of the discord arising between the two Spouses, and shall exert their utmost effort to bring peace between them by all possible means.

ARTICLE ⁷10 :

⁴ Substituted by virtue of law no. 100 of the year 1985.

⁵ Substituted by virtue of law no. 100 of the year 1985

IF THE ARBITRATORS FAIL TO BRING PEACE
BETWEEN THE SPOUSES :

1- If the wrongdoing and ill-treatment is wholly on the part of the husband, the two arbitrators shall suggest and recommend giving a complete and absolute divorce to the wife without affecting anything of the wife's rights resulting from marriage and divorce.

2- If the ill-treatment and wrongdoing is wholly on the part of the wife, the ARBITRATORS shall suggest and recommend giving her divorce, in exchange for a commensurate RETURN to be estimated by the ARBITRATORS and the wife to comply with.⁸

3- If the ill-treatment is mutual" the ARBITRATORS shall then suggest and recommend giving the divorce against no RETURN or in exchange for a RETURN commensurate with the proportion of the ill-treatment.

4- If the truth about the cause of discord remains unknown and the offending and wrongdoing spouse is not identified., the ARBITRATORS shall suggest and recommend decreeing a divorce between the Spouses without anything in return.

ARTICLE 11⁹:

⁶ Substituted by virtue of law no.100 of the year 1985.

⁷ Substituted by virtue of law no.100 of the year 1985.

The TWO ARBITRATORS shall submit their report to the COURT, comprising the reasons and justifications on which the report is based. If they are found to be disagreeing, the Court shall then send them with a third ARBITRATOR having experience of the situation arising between the spouses, and the ability to make peace between them. The Court shall administer the oath to that third arbitrator, as prescribed in article (8). If the three arbitrators do not reach agreement and fail to submit their report within the date specified for them, the Court shall then proceed with procedures of providing evidence of the discord, and if the Court fails to reach peace and conciliation between the two spouses ¹⁰, and it transpires to it that it will be impossible for the spouses to continue associating with one another, and that the wife still insists on divorce, the COURT shall issue its judgement decreeing a divorce between them, and such divorce shall in this case be complete and absolute, but the wife shall forfeit its financial rights wholly or partially, and shall pay a suitable compensation if so decreed necessary.

ARTICLE 11 (bis) ¹¹: The Husband shall declare his social status, in the wedding document. If he is already married, he shall mention in his declaration the name of his covert wife or wives, and their residence places. The notary shall notify these wives of the new marriage, by registered letter with acknowledgement of receipt.

A wife whose husband gets married to another fellow wife may ask for divorce from him, if such new marriage causes her a material/physical or moral harm making it impossible

⁸ Corrected by virtue of the rectification published in Official Journal Issue no. 33 dated 15 August, 1985.

⁹ Substituted by virtue of law no.100 of the year 1985.

¹⁰ Corrected by virtue of a rectification published in Official journal no. 33 dated 15 August, 1985.

¹¹ Added by virtue of law no. 100 of the year 1985.

for both of the spouses to associate any “longer with each other, even if she might have stipulated in the wedding contract that he shall not marry another fellow wife beside her.

If the COURT fails to make peace between them, the Judge shall then grant her a complete and absolute divorce. The wife’s right to asking for divorce for that reason shall be forfeited with the lapse of one year from the date she learns and becomes aware of his marriage to another fellow wife, unless she has consented to that, explicitly or implicitly. Her right to ask for divorce shall be renewed each time the husband marries another fellow wife.

If the new wife is unaware of his being married to another one before her, then discovers that he is married to a former wife, she will have the right to ask for divorce, as well.

ARTICLE 11 (bis-2) ¹²

If the wife refrains from obeying the husband unjustifiably and without any right, the wife’s alimony shall be discontinued from the date of disobedience.

A wife shall be considered refraining from submission and obedience if she does not return to the house of marriage after her husband calls her to return to her home by serving on her personally or through her proxy, a notice’ via a bailiff. He shall indicate the location of the house, in his notice to her.

¹² Added by virtue of law no. 100 of the year 1985.

The wife shall have the right to object to such notice before the Court of First Instance, within thirty days from the date of the notice served on her. In her petition of objection she shall indicate the legitimate sides and aspects on which her refrainment from submission to him is based, otherwise a court judgement shall be issued refusing acceptance of her objection.

Discontinuing her alimony from the date the period for filing her objection will expire shall be reckoned with, if she fails to file the objection within the prescribed period.

In examining the objection, or upon the request of either spouse, the Court shall intervene to end the litigation between them peacefully, by continuation of marriage and good association between them. If it transpires to the Court that the difference is deep-rooted and entrenched, and that the wife insists on divorce, the Court shall then take arbitration procedures as prescribed in articles 7 to 11 of the present law.

3 -GRANTING A DIVORCE TO THE WIFE FOR HUSBAND'S ABSENCE OR IMPRISONMENT.

ARTICLE 12:

If the husband keeps himself away and absent for one year or more without an acceptable reason, the wife may then ask the Court to grant her a definite divorce by virtue of a judicial court decree if she is put to disadvantage and suffers harms by his absence, even if he has finance from which she can spend for her needs.

ARTICLE 13:

If it is possible for messages to reach the absent husband, the Judge shall set a date for him, and the court shall excuse itself thereby, to divorce if he does not arrive to live with her, or if he does not transfer her to him, or if he does not divorce her willingly.

If the date set for him expires without the husband doing as called upon, and without giving an acceptable and justifiable reason, the Judge shall separate between them by granting her a definite divorce.

If no messages could reach the absent husband, the Judge shall issue a judicial decree granting her divorce without excuse, and without setting a date for such divorce. .

ARTICLE 14:

The wife of an imprisoned husband against whom a final judgement is sentenced with custodial penalty for a period of three or more years. may ask the COURT following the lapse of one year from the date of his imprisonment to issue a judicial decree granting her a definite and absolute divorce for being put to disadvantage and for suffering harms even though he might have finance for her to spend for her needs.

4 -ACTION FOR AFFINITY AND KINSHIP

ARTICLE 15:

In case of denial, no action shall be heard for affinity of a wife's child, if it is established there has been no reunion between her and her husband, since the date of the wedding

contract -or an action for affinity of a wife's child born by her after one year from the husband's absence from her, nor will an action be heard for affinity of a divorcee's child whose husband was deceased if the child is born by her after more than one year from the date of divorce or decease.

5 -ALIMONY AND MENSTROUS TERM

ARTICLE 16 ¹³:

A wife's alimony shall be estimated according to the husband's status at the date the alimony becomes due, whether he is in affluent circumstances, or in hard financial distress, providing the alimony in the latter case shall not be less than the amount indispensable for meeting her essential needs.

In case a reason comes up for entitlement to the alimony and conditions of such entitlement are fulfilled, the Court shall issue a ruling imposing for the wife and her youngster children, within at most two weeks from filing the action, a temporary alimony (to meet her essential needs) .Such court decree shall be unsubstantiated and self-executed forthwith, pending the issue of a self-executed court decree determining the wife's alimony.

The husband¹⁴ may effect a clearance and an offset between the temporary alimony paid thereby and the alimony finally decreed against him by the court, so that the amount to be received by the wife and her youngster children shall not be fewer than the amount

¹³ Substituted by virtue of law no. 100 of the year 1985.

¹⁴ Corrected by virtue of a rectification published in the official Journal no. 33 of 15 August, 1985.

necessary to meet their essential needs.

ARTICLE 17:

An Action for “MENSTRUAL TERM” alimony shall not be heard for a period exceeding one year from the date of divorce.

In case of denial, an action shall not be heard, for inheritance by reason of marriage, which is filed by a divorcee whose husband was deceased, after one year from the date of the divorce.

ARTICLE 18:

A judicial decree imposing an alimony, which is passed following enforcement of the present law, shall not be executed for a period exceeding one year from the date of divorce. Nor shall a court decree issued before enforcing the present law, be executed for a period following issuance of the law, except to a limit which completes one year from the date of divorce.

ARTICLE 18 - (bis)¹⁵:

A wife whose marriage is consummated in a valid wedding, shall be entitled, in addition to her MENSTRUAL TERM alimony, a further delactation and enjoyment alimony - equivalent to at least the alimony of two years, subject to the condition of the divorcer,

¹⁵ Added by virtue of law no.100 of 1985.

in term of affluence or hard financial distress, the conditions of the divorce, and the duration of marriage. A divorcer may be authorized to settle this enjoyment alimony, in instalments.

ARTICLE 18 - (bis 2)¹⁶: If the youngster has no funds, his father shall provide for his alimony. The alimony for children shall be provided by their father until the daughter gets married, or is able to earn an income sufficient for her expenses, and until the son attains fifteen years of age and is able to earn a suitable income. If the son attains this age without being able to earn a living, for physical or mental ailment/disease, or by reason of continuing education as suitable for children like him or for his aptitude, or because of his inability to earn such possible income, his father shall continue to provide for his alimony.

The father shall provide alimony for his children and provide an adequate habitation for them commensurate with his affluence, and guaranteeing a living for the children at a level which would be suitable for those like them.

The children shall be entitled to alimony from their father effective the date he refrains from spending on them.

¹⁶ Added by virtue of law no.100 of 1985.

ARTICLE 18 - (bis 3) ¹⁷:

The divorcer husband shall provide for his youngster children of his divorcee-and-female-guardian a separate suitable habitation, and if he fails to provide it within the menstrual term, they shall continue to occupy the rented marriage hous~, during the period of his divorcee's guardianship, without the divorcer's right to live in it.

If the marriage habitation is not a rented location, the divorcer husband shall have the exclusive and separate right of using it, if he provides for them a suitable separate following the expiry of the menstrual term.

The JUDGE shall give the female-guardian the choice between having exclusive and separate use of the marriage house, and getting an estimated rental amount for a suitable habitation for the nursed children and herself.

When the period of female guardianship expires, the divorcer shall have the right to return to the habitation with his children., if it is his right, in the first place, to maintain the house legally.

The Public Prosecution shall have the authority to issue a decision in connection with the litigations arising with respect to holding the marriage house referred to above, until a court ruling is issued settling the litigation.

¹⁷ Added by virtue of law no.100 of 1985.

6- BRIDE'S DOWRY

ARTICLE 19:

If a difference arises between the spouses with respect to the dowry, the evidence shall be produced and provided by the wife, and if she fails to provide such evidence, it shall then be the husband's say after administering the oath to him, unless he alleges something which in prevailing customs cannot be valid as a dowry for a wife in her condition, in which case the Court shall decree for her a dowry similar to those in her status.

The same shall apply in case of a difference arising between one of the spouses and the successors of the other, or between the successors of both spouses.

7 -AGE OF NURTURE

ARTICLE 20¹⁸:

The right of female guardianship shall expire once the youngster attains the age of ten for boys and the age of TWELVE "for girls. The Court may decree that after attaining the prescribed ages, the youngsters shall remain in the hands of the female guardian, without custody fees, until the age of FIFTEEN(for boys) and until the youngster girl gets married, if it transpires to the judge that the youngsters' interests necessitate doing that.

Each one of the spouses shall have the right to see the youngster boy or girl. The grandfathers shall have the same right in case the youngsters have absent parents.

¹⁸ Substituted by virtue of law No.100 of the year 1985.

In case it is difficult and impossible to arrange for seeing the children by agreement, the Court shall organize that providing it shall take place where it should not harm the young boy or girl psychologically.

A Court ruling for seeing the children shall not be enforced coercively. However, if the one in whose hands the youngster is kept, refrains unjustifiably from executing the court judgement, the Court shall serve a warning on him, and if a recurrence thereof takes place on his part, the COURT may issue a judicial self-executed decree transferring the custody temporarily to the next in kinship who have the right to such guardianship, for a period to be determined by the court.

The right of tutelage and custody is established for the mother, then for the female prohibited degrees of consanguinity, with priority to degrees of the mother's linearship over the father's, and considering the closer to kinship on both sides, according to the following order:

The mother, then the mother's mother, even if she is grand-grand mother... etc, the father's mother¹⁹ even if she is grand grand mother the full sisters, the sisters from the mother, the sisters from the father, the daughter of a full sister, the daughter of a sister from the mother, the aunts (mother's sisters) according to the above sequence of sister, the daughter of a sister from the father, the daughters of a brother according to the order above, the aunts (father's sisters) according to the order above, the mother's aunts (sisters of the mother's mother) according to the order above, the father's aunts (sisters of the

¹⁹ Corrected by virtue of rectification published in official journal no.33 of 15/8/1985.

father's mother) according to the order above, the mother's aunts (sisters of the mother's father) according to the order above, and the father's aunts (sisters of the father's father) according to the order above.

If no such female guardianships are available, or if there is no one among them eligible to assume the custody, or if the period of female guardianship expires, the right of custody shall shift to agnate males according to their order of entitlement to inheritance, taking into consideration that a full grandfather shall have precedence over the brothers.

If no one of these exists, the right of custody shall shift to the youngster's prohibited degrees of consanguinity within males other than agnates, according to the following order:

THE GRANDFATHER (MOTHER'S FATHER), THE MOTHER'S BROTHER,
THE MOTHER'S NEPHEW (HE~"BROTHER'S SON.)" THE UNCLE .-
(FATHER'S BROTHER), THE FULL UNCLE (MOTHER'S FULL
BROTHER), THE FATHER'S UNCLE (BROTHER OF THE FATHER'S
MOTHER), then THE MOTHER'S UNCLE (BROTHER OF THE M0THER' S
MOTHER).

8 -PERSON MISSING AND LOST

ARTICLE 21:

A missing person who is regarded to be most likely dead, shall be decreed as deceased, after the expiry of FOUR years from the date he became missing.

However, in all other cases, determining the period following which a missing person may be considered and decreed as missing shall be left to the Court, after investigating about his loss by all possible channels that may lead to any information and knowledge as to whether the missing person is alive or dead.

ARTICLE 22:

After a court ruling is passed decreeing the missing person to be dead., in the way set forth in the previous article, the wife shall observe a period of mourning, and the estate of the missing deceased shall be divided among his successors surviving at the time the court ruling is passed.

9 -GENERAL PROVISIONS

ARTICLE 23:

By year, in articles (12 to 18) is meant a calendar year of 365 days.

ARTICLE 23 (bis 1)²⁰:

A divorcer shall be liable to imprisonment for a period not exceeding²¹ SIX months and a fine not exceeding TWO HUNDRED POUNDS, or either penalty, if he violates any of the provisions prescribed in Article (5) [bis] of the present law.

The husband shall be liable to the same penalty if he give to the notary incorrect (untrue) data on his social status, or about the residence place of his wife, wives, or divorcee, other than what is prescribed in article-II (bis)

The NOTARY shall be liable to imprisonment for a period not exceeding one month, and a fine not exceeding FIFTY pounds, if he violates any of his obligations as imposed thereon by the LAW. A court ruling may also be issued, removing him or suspending him from work for a period not exceeding one year.

ARTICLE 24:

ARTICLES (3, 7, 12) of law no. 25 of the YEAR 1920, comprising provisions on alimony and other points on personal status, shall hereby be superseded.

ARTICLE 25:

The Minister of JUSTICE shall enforce the present law which shall come into effect as of the date of its publication in the OFFICIAL JOURNAL.

²⁰ Added by virtue of law no. 100 of the year 1985.

ORDER is by us given for the present LAW to be stamped with the SEAL OF THE STATE, and be published in the OFFICIAL JOURNAL to enforce it as a LAW OF THE STATE.

ISSUED at ABDINE PALACE on 28 RAMADAN 1347 (Islamic Year) corresponding to MARCH 10, 1929.

²⁰ Corrected by the rectification published in the Official Journal issue no.33 of 15 August, 1985

Appendix 4

Official Journal. Issue No.4~Bis. Dated 29 January 2000

Law No.1 Of The Year 2000

PROMULGATING THE PROCEDURAL PERSONAL STATUS

Law on Reorganization of Certain Terms and Procedures
of Litigation in Personal Status Matters

In the Name of the People,

The President of the Republic,

The People's Assembly passed the following Bill, and it is promulgated by us.

Article: 1

The provisions of the attached law shall apply to litigation procedures in personal status and mortmain matters, and where no special text is prescribed in the provisions of the Civil and Commercial Procedure Law, the provisions of Evidence Law in Civil and Commercial Matters, and the provisions of the Civil Code concerning the administration and liquidation of successions.

The Provisional Issues Judge in the Court of First Instance shall exclusively be concerned with issuing a warrant on a petition in the following personal status matters:

1. Complaint from the refrain of the notary to notarize the marriage contract, or to give a certificate establishing his refrain, whether to Egyptians or foreigners.
2. Extending the date of inventory of the succession as necessary to complete the inventory if the law applicable determines a date therefor.
3. Taking necessary preventive or provisional procedures on successions where no legally incapacitated, legally incompetent, or absent person exists.
4. Authorizing the Public Prosecution to transfer the cash funds, securities, documents, jewelry and other property of the legally incompetent, incapacitated, or absent persons, that are being feared for, to the treasury of any of the banks or to a safe and secure place.
4. Litigations on travel abroad, after hearing the statements of interested parties.

Article: 2

The courts shall refer, without fees, and ex officio, the actions examined thereby and which have become within the jurisdiction of other courts, by virtue of the provisions of the attached law, in the conditions they are found to be. In case of absence of a litigant, the Clerks Office shall serve a notice thereon concerning the subject of reference of the action, along with summoning him/her to attend at the time determined thereby before the court to which the action is referred.

The provisions of the previous clause shall not apply to the actions in which a judgement is already passed, or the actions deferred for passing a judgement in them, since they remain subject to the provisions in force before the present law comes into force.

Article: 3

Rulings shall be pronounced according to the personal status and mortmain laws in force. The most outweighing statements in the school of thought of Imam Abou Hanifa shall apply where no provision is prescribed in j these laws.

However, rulings shall be issued in litigations connected with personal status affairs between Egyptian non-muslims of the same sect and creed who had organized congregational judicial authorities up to 31 December 1955 according to their religious doctrine, where they do not violate public order.

Article: 4

The Statutes On the organization of Shari' a Courts as enacted by virtue of decree law no.78 of the year 1931 shall be abolished. Also, book 4 of the Civil and Commercial Procedure Law, as added to law no. 77 of the year 1949, and laws no. 462 of the year 1955, and no.628 of the year 1955, and no. 62 of the year 1976, referred to herein before, as well as the statutes of procedures to be followed in executing the rulings of the Shari' a courts as issued in the year] 907 shall also be abolished. All provision contravening the provisions of the attached law shall also be superseded.

Article: 5

The Minister of Justice shall issue the decrees necessary for execution of the provisions of the attached law.

He shall also issue the statutes regulating marriage contract registrars and notaries affairs, as well as their work, and the forms of documents necessary to perform these works.

Article: 6

The present law shall be published in the Official Journal and shall come into force one month after the day next to the date of its publication.

This law shall be stamped with the seal of the State and shall be enforced as one of its laws.

Issued at the Presidency of the Republic on 22 Shawal, Hejira year 1420, corresponding to 29 January 2000 (Calendar Year).

Hosni Mubarak

PROCEDURAL PERSONAL STATUS

Law on Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matters

Article: 1

The procedural periods and dates prescribed in the present law shall be reckoned pursuant to the Gregorian Calendar.

Article: 2

The legal capacity for litigation in personal status matters for guardianship shall be established for a person who completes the age of fifteen full calendar years and enjoys his mental faculties.

A person who is legally incompetent or with incomplete legal capacity shall be acted for by his legal representative. If there is no one representing him, or if there is place for assuming litigation procedures contrary to his representative's view or vis-a-vis his representative, the court shall appoint a guardian for litigation, ex officio or upon the request of the Public Prosecution., or a third party.

Article: 3

A lawyer's signature shall not be necessary on personal status initiatory pleadings before the summary courts. If an action is initiated without a lawyer's signature on its initiatory

pleading, the court in case of necessity may delegate a lawyer to defense the claimant. The ruling pronounced in the action shall determine the delegated lawyer's fees to be sustained by the public treasury), without derogation to the commitment of subordinate bar associations boards to extend judicial aid as prescribed in law no. 17 of the year 1983 promulgating the Legal Practice Law.

Alimony and maintenance actions and all kinds of like fees, charges, and expenses lawsuits shall be exempted from all judicial fees in all stages of litigation.

Article: 4

The court -within the context of preparing the action for judgement - shall get the litigants in their disputes, to be circumspect of the demands for proper process of the case, and grant them time to submit their defenses.

The court may also delegate one or more social workers/ specialists to submit a report on the case tabled before it or on any matter therein, and determine a period, not exceeding two weeks, for submission of the report.

Such delegation shall be made from the social workers/socialists lists which shall be issued by decree of the Minister of Justice as nominated by the Minister of Insurance and Social Affairs.

Article: 5

The court may decide examining the personal status related matters - for public order or moral considerations - in a sitting in camera and in the presence of a member of the Public Prosecution in case it is represented in the case, and pronounce the judgements and decisions in open court.

Article: 6

Without derogation to the public prosecution's jurisdiction in filing the case in personal status related affairs, in probate proceedings as prescribed in law no. 3 of the year 1996, the public prosecution may file the case primarily in personal status affairs, if the issue is connected with public order or morals. It may also intervene in personal status actions that fall within the jurisdiction of summary courts.

The public prosecution shall intervene in personal status and mortmain cases that fall within the jurisdiction of the courts of first instance or courts of appeal, otherwise the judgement shall be null and invalid.

Article: 7

In case of negation, an action for recognition of affinity, or a testimony of that recognition shall not be accepted after the death of the testator unless there are official papers, or papers wholly inscribed in the handwriting of the deceased and signed thereby, or there are absolute and categorical evidences indicating the validity of that prosecution.

Article: 8

A mortmain action, its conditions, recognition, entitlement thereto, or acts and disposals in respect thereof shall not be accepted unless the mortmain is established by virtue of an attestation registered according to the provisions of the law.

A mortmain or succession action shall not be accepted in case of negation, if initiated after the lapse of thirty three years from the time of establishing the right, unless an excuse arises to prevent and obstruct lodging the case.

If the trustee of the endowment/mortmain is removed, or another trustee is made to join him, the court shall appoint, in both cases, by virtue of an enforceable ruling, a temporary trustee pending a final ruling decides the case.

COURTS' JURISDICTION IN PERSONAL STATUS AFFAIRS

Chapter -1

Jurisdiction Of Value

Article: 9

The Summary court shall have the jurisdiction of examining the issues set forth in this article.

And, subject to the provisions of article (52) of the present law, the court's ruling in the actions shall be appealable unless it is considered final by a law provision, as follows:

First: Matters connected with guardianship on persons:

1. Actions connected with the custody, fostering, and maintenance of, and seeing, embracing, and moving with the infant.
2. Actions connected with alimony/maintenance and others in like status, comprising wages and expenses of all kinds.
3. Actions connected with permitting the wife to assume its rights, in case the law applicable thereto provides for obtaining the husband's permission to assume these rights.
4. Actions connected with the wife's marriage portion, paraphernalia, dowry, engagement present and others in practically like status.

The ruling shall be final if what is claimed does not exceed the final portion to be ruled by the summary court judge.

5. Correcting the entries connected with personal status affairs, in marriage and divorce certificates and documents.
6. Notarizing all that will be agreed upon by the concerned parties before the court, in what is legally permissible.
7. Permitting the marriage of a person having no guardian.
8. Affirming the decease, succession, and mandatory testament, unless a litigation arises in respect thereof.

Second: Matters connected with the custody of funds and property in case the funds required to be protected do not exceed the limits subject to the summary court's jurisdiction:

1. Fixing the elected legator, and appointing the legator, supervisor, and director, controlling their works, issuing a final decision in their accounts, removing and substituting them.
2. Establishing a person's absence, ending it., appointing a proxy for the absent, controlling his/her work, and removing and substituting him/her.
3. Determining the judicial aid, removing it, appointing the juridical assistant, and replacing him/her.
4. Continuing the guardianship or tutelage past the age of twenty one years, permitting the minor to receive his/her property and funds to manage them according to the provisions of the law, permitting him/her to exercise trade and take acts as required to be

carried out in order to obtain a permission/authorization, and stripping off, discontinuing or limiting any of these rights.

5. Appointing an official authorized to litigate for the minor or absent person, even if the latter does not have funds/property.

6. Estimating an alimony/maintenance for the minor, out of his/her funds/property, and pronouncing a final decision in litigations arising between the guardian on the person or the guardian for breeding and raising, and the legator, in connection with spending on, breeding, or caring for the minor.

7 -Discharging the guardian where he may be discharged, according to the provisions of the Guardianship law on property/funds.

8. Demanding the guardian's retirement from, and retrieval of, his guardianship.

9. Permitting the issue of funds for spending on the minor's marriage, in the cases where the law necessitates asking the court's permission.

10. All other matters connected with management of the property and funds according to the provisions of the law, and taking relevant preventive and temporary measures, whatever the value and amount of the property and funds.

11. Appointing a liquidator for the estate/succession, and removing, and replacing him/her, and issuing final decisions in litigations connected with liquidation once the value of the succession does not exceed the limits subject to the court's jurisdiction.

Article: 10

The Court of First Instance shall have the jurisdiction of examining personal status cases that are not subject to the jurisdiction of the Summary Court, and the

endowment/mortmain actions and conditions, entitlement thereto, and acts/disposals connected therewith.

The Court of First Instance whose jurisdiction is vested locally for examination of divorce cases, or cases of ruling spouses' divorce or physical separation, exclusively shall be concerned with pronouncing a first instance ruling in alimony, wages, and other cases of practically like status, whether for the wives, children, or relatives, and the custody, fostering, and maintenance of, seeing, embracing, and moving with the infant, and the house for fostering the infant.

The First Instance Courts and Summary Courts filing the action, or before which an action is lodged for any of these demands, shall refer them to that court so that one final ruling shall be pronounced by it.

The court, in the course of the action, may issue enforceable temporary rulings for seeing the infant, determining temporary alimony/maintenance, or modifying whatever alimony/maintenance it might have decided, more or less.

These temporary provisions as pronounced during the process of these cases shall not be appealable/contestable except with issuing the final ruling in them.

Article: 11

The First Instance Court within the circuit of which the foreigners' marriage contract is notarized shall have the jurisdiction of issuing a ruling in the objection lodged to that marriage, or in the request for interdicting one of the contract parties, if the enforceable law makes the interdiction a cause for removal of his legal capacity for marriage, and lodging the action results in stopping the fulfillment of the marriage pending the issue of a final court ruling in it.

The court of first instance shall have the jurisdiction of imposing and lifting the interdiction, appointing the guardian and controlling his/her works, issuing a final decision in his/her accounts, removing and replacing him, permitting the interdicted person to receive his/her property and funds to manage them, according to the provisions of the law, stripping off or limiting that right, appointing an official who shall be authorized to litigate therefor, estimating the alimony/maintenance of the interdicted person in his/her property/funds, and issuing a final decision in the litigation that arises between the guardian on a I person as well as the guardian for breeding and fostering, and the curator concerning the maintenance and support of the interdicted person.

Article: 12

If the court rules for stripping off or discontinuing the guardianship, it shall assign it to the person ranking next to the one whose guardianship is stripped off or discontinued according to the enforceable law, then to the one ranking next thereto in sequence. If the one to whom the guardianship is entrusted refrains, after being notified thereof, in the

way prescribed in article (40) of that law, or if he does not fulfil the eligibility factors, the court shall then entrust the guardianship to any trustworthy person, or to one of the social institutions.

The property and funds shall be delivered in this case to the proxy who is appointed in his/her quality as temporary director, after inventorying them the way prescribed in article (41) of the present law.

The Public Prosecution shall expeditiously take the necessary procedures for appointing a guardian on the one covered by guardianship.

Article: 13

The court examining the original matter exclusively shall be concerned with approving the account submitted by the proxy on the person who is legally incompetent, the person with incomplete legal capacity, or the absent person, or the account submitted by the temporary director. It shall also be concerned with issuing a final decision in the litigations connected with that account.

Article: 14

The court that rules for terminating the custody on the property/funds shall be concerned with examining the matters connected with the account and delivery of the property/funds, pending the issue of a final decision in them.

The court shall also have the jurisdiction of examining the litigations related to the execution of the rulings and decisions issued thereby in this respect.

Chapter -2

Local Jurisdiction

Article: 15

The domicile shall be determined, in the intendment of this law, as prescribed in articles (40,42, and 43) of the Civil Code.

And, subject to the provisions of articles (10 and 11) of the present law., the jurisdiction shall devolve upon the court within the circuit of which the domicile of the defendant is located. If the defendant does not have a domicile in Egypt, the jurisdiction shall devolve to the court within the circuit of which the claimant's domicile is located.

In case of multiple defendants, the jurisdiction shall pass to the court within the jurisdiction of which lies the domicile of one of the defendants.

The local jurisdiction for examining certain personal status matters shall be determined as follows:

- 1) The court within the circuit of which lies the domicile of the claimant or defendant shall have the jurisdiction for examining the case brought by the children, wife, the

parents, or the female guardian for nurture” according to each case, in the following matters:

- a. Alimonies, wages, and other cases of practically like status.
 - b. Custody, fostering, seeing, and matters related thereto.
 - c. The wife’s marriage portion, paraphernalia, dowry, engagement present and others in practically like status.
 - d. Ruling the spouses’ divorce¹, khulu (Legal right for women to seek divorce under certain circumstances for consideration payable by her) or the redemptive divorce, absolution, separation of the spouses, with all legal causes thereof.
- 2) The court within the circuit of which lies the last domicile of the deceased in Egypt shall have the jurisdiction of affirming the established evidence of inheritance, testaments, and liquidation of successions. If the deceased doesn’t have a domicile in Egypt, the jurisdiction shall devolve upon the court within the circuit of which lies one of the corporeal property of the succession.
- 3) The local jurisdiction in the following matters of custody on the property/funds shall be determined as follows:
- a. In matters of guardianship, it shall be determined according to the domicile of the guardian or the minor, and in matters of wardship, the court’s jurisdiction shall be determined according to the last domicile of the deceased or the minor.

- b. In matters of interdiction and judicial assistance, it shall be determined according to the domicile of the person required to be interdicted or judicially assisted.
 - c. In matters of absent persons, it shall be determined according to the last domicile of the absent. If none of these persons has a domicile in Egypt, the jurisdiction shall then go to the court within the circuit of which lies the domicile of the applicant, or the property and funds of the person required to be protected.
 - d. If - the domicile of the minor or interdicted or the judicially assisted person changes, the court may, upon the request of interested person, or the public prosecution, refer the case to the court within the circuit of which lies the new domicile.
 - e. The court that rules for stripping off or discontinuing the guardianship shall have the jurisdiction of appointing a successor of the guardian, whether guardian or curator, unless the court decides to refer the matter to the court within the circuit of which lies the domicile of the minor.
- 4) With the exception of dividing the corporeal property of terminating endowments, he jurisdiction for examining the endowments litigations, conditions, and entitlement thereto, as well as the acts and disposals involved therein, shall devolve upon the court within the circuit of which lies the corporeal property thereof, or that of the

¹ Forced divorce

highest value in case of multiple property, or the court within the circuit of which lies the domicile of the trustee of the endowment, or the defendant.

PART 3

Chapter -1

Matters of Guardianship on Persons

Article: 16

An action, in matters of guardianship on persons, shall be filed in the usual manner of lodging the case as prescribed in the Civil and Commercial Procedure Law.

Article: 17

Actions arising from marriage contracts shall not be accepted if the wife is less than sixteen calendar years of age, or the husband's age is less than eighteen calendar years at the time of lodging the case.

In case of negation/denial, the actions arising from marriage contracts shall not be accepted in respect of the facts subsequent to August 1, 1931 -unless the marriage is established by virtue of an official document. However, actions for forced divorce, or for rescission exclusively shall be accepted according to each case, if the marriage is established by any written evidence.

Cases of forced divorce between the spouses of the same sect and faith shall not be accepted unless their creed permits it.

Article: 18

The Court, in actions of guardianship on persons, shall offer conciliation between the litigants. A party who fails to attend the conciliation session -while being aware thereof - without acceptable excuse, shall be considered refusing it.

In divorce actions and forced divorce cases, no ruling shall be pronounced except after the court exerts an effort in trying to reconcile the spouses and is unable to realize such conciliation. If the spouses have a child, the court shall offer the reconciliation at least twice, within a period of not less than thirty days and not exceeding sixty days separating these two attempts.

Article: 19

In forced divorce actions wherein the law necessitates delegating two arbiters, the court shall charge each of the two spouses to name an arbiter from his/her own kindred -as much as possible -at most in the following session. If either spouse neglects to appoint his/her arbiter or fails to attend that session, the court shall appoint an arbiter therefor.

The two arbiters shall appear before the court in the session following their appointment to declare what they have concluded together. If they differ, or either arbiter fails to

attend, the court shall hear their statements or the statement of the one who attends after taking the oath.

The court may adopt what the arbiters have concluded, or the statements of either arbiter, or whatever conclusion the court will draw from the papers of the action.

Article: 20

The two spouses may reach mutual consent on khulu. If they fail to agree mutually on it, and the wife initiates her case requesting to apply al- Khole, and redeems/ransoms herself by seeking divorce from her husband against relinquishing all her legal financial rights, and restitutes to him the bridal I dowry he had given her, the court shall then rule for her divorce from him.

The Court shall not rule for divorce through khulu except after trying to reach reconciliation between the two spouses, and after delegating two arbiters to continue reconciliation endeavours between them, within a period not exceeding three months, as indicated in clause-2 of article (18) and the first and second clauses of article (19) of this law, and also after the wife explicitly declares that she hates life with her husband, that there is no way for continuing marital life between them, and that she fears to commit a violation of the restrictions that God has placed because of that hatred.

Dropping and waiving children's tutelage and fostering, their maintenance and alimony, or any of their rights shall not be the price for divorce through khulu.

In all cases, a divorce through khulu shall be a final and irrevocable divorce.

The ruling for khulu shall in all cases incontestable by any method of contestation.

Article: 21

In case of negation and denial, only the attestation and notarization shall be reckoned with in establishing a divorce. In requesting the attestation and notarization of the divorce, the notary shall enlighten the spouses as to the risks of divorce, and call them to choose an arbiter from the husband's kindred, and one from the wife's folk to reconcile between them. If the spouses insist together on immediate divorce, or if they declare together that divorce has already taken place, or the husband declares that he has divorced his wife, the divorce shall be notarized after attesting it.

All the foregoing provisions shall apply in case the wife asks to divorce herself if she has maintained for herself the right to do that in the marriage document.

The notary shall record the procedures taking place, on the date of their occurrence, on the form provided for the purpose. Establishing the divorce vis-a- vis either spouse shall not be reckoned with unless the spouse personally, or his/her acting representative, attends the notarization procedures, or from the date the divorce is announced by virtue of an official paper.

Article: 22

Subject to the right of the wife to establish her divorcer's return to her, by all methods of evidence, the husband's claim of having returned to his divorcee shall not be accepted, in

case of negation/denial, unless he announces to his divorcee his return to her by virtue of an official paper before the lapse of sixty days for a menstruating divorcee, and ninety days for a divorcee whose period of waiting is counted in months from the date of notarizing her divorce by her husband, unless she is pregnant, or she declares that her menstruous term or term of waiting has not lapsed until she is announced of her divorcer's return to her.

Article: 23

If the income of the person against whom a ruling for payment of alimony/maintenance or other like status payments, is subject of a serious litigation, and in the papers of the case nothing adequate exists to determine his income, the court shall ask the public prosecution to carry out an investigation that enables the court to reach such determination.

The public prosecution shall carry out the investigation by itself in this respect.

And, subject to the provisions of Decree Law no. 205 for the year 1990, of the President of the Republic, concerning the confidentiality of accounts in banks, any governmental or non-governmental quarter shall inform the public prosecution of any information held thereby, which would be useful in determining the income of the husband from whom the alimony/maintenance is required.

The information resulting from these investigations shall not be used for other than the matter it has been carried out for.

The public prosecution shall end the investigation and forward it coupled with a brief note of the results concluded thereby, within a date not exceeding thirty days from the date the court's request is received by it.

Article: 24

A person who asks for attesting the death, inheritance, or incumbent will shall submit a request for that to the competent court, to which shall be attached an official paper establishing the death, otherwise the application shall be unacceptable.

The request shall comprise a statement of the last domicile of the deceased, the names of the successors and of those benefiting of an incumbent legacy, if they exist, and their domicile. The applicant shall serve a notice on them to attend before the court at the time determined for looking into the request. The judge shall verify the validity of the application with the attestation of trustworthy person, and may add thereto the administrative inquiries, as he deems necessary. If any of the heirs, or of the legatees benefiting from an incumbent will, negates and denies, and the judge considers their negation and denial to be serious, he shall refer the application to the competent court of first instance to issue a final decision in it.

Article: 25

The attestation issued by the judge according to the provision of the previous article shall be an evidence concerning the decease, succession, and incumbent will, unless a provision is issued prescribing otherwise.

Chapter : 2

Trusteeship

Article: 26

The Public Prosecution shall assume the charge of safeguarding and caring for the interests of legally incompetent persons, persons with incomplete legal capacity, and absent persons. It shall take protective measures on their property and funds and supervise their management according to the provisions of this law.

The public prosecution may also delegate one of the law officers, as one of the measures it decides to apply.

It may also seek the help of assistants attached to it by virtue of a decree of the Minister of Justice. These assistants shall be considered law officers in connection with the works assigned to them in the course of performing their functions.

The Public Prosecution may estimate a temporary alimony from the property and funds of the maintenance beneficiary, until a court judgement estimating this alimony is ruled.

Article: 27

Relatives who were staying with the deceased and lived therewith together, or the oldest of adult successors shall inform the public prosecution of the death occurrence of an

absent or incompetent person, a person with incomplete legal capacity, or a dormant gestation, or the death of the guardian, custodian, curator, or proxy of the absent, within three days from the occurrence of the decease.

The relatives shall inform the public prosecution within the same period about the forfeiture of legal capacity, or the absence of a member of the family, if he/she was staying and living with them together.

Article: 28

The treating physicians, and the directors of hospitals and sanatoriums/clinics, according to each case, shall notify the public prosecution about cases of incapacity resulting from mental infirmity, once this fact is established with them.

Those concerned at the administrative authorities, shall inform the public prosecution, once a case of incapacity transpires to them during their performance of their work, as prescribed in the previous clause.

Article: 29

A guardian of a dormant gestation shall inform the public prosecution, of the termination of pregnancy period, or the separation of the carried young, alive or dead.

Article: 30

Violating the provisions of articles (27, 28, and 29) of the present law shall be liable to a fine penalty of not less than fifty Egyptian pounds and not exceeding one hundred pounds. If the failure to notify the foregoing is meant to cause harm and prejudice to an incompetent person, a person with incomplete legal capacity, an absent person, or others concerned, the penalty shall be that of detention for a period not exceeding one year and a fine of not less than one hundred pounds and not exceeding one thousand pounds or either penalty.

Article: 31

Whoever hides, with the aim of causing harm and damage, a fund/property owned by an incompetent person, a person with incomplete legal capacity, or an absent person, shall be liable to a penalty of detention.

Article: 32

The public prosecution shall record in a special register, the requests submitted for interdiction, judicial aid, continuation of guardianship or custody, stripping off, limiting or discontinuing the guardianship, stripping off or restricting the permission given to the minor or interdicted person, establishing the absence of a person, restricting the power of the absent person's proxy, preventing the person required to be interdicted from, or stripping off or restricting his capacity or freedom of disposal. The public prosecution shall record such requests on the day and at the hour they shall each be submitted.

Recording in the register shall stand for registration, and shall produce its effect from the date it is recorded once a ruling is passed responding to the request, and the public prosecution shall delete the recorded entry, from the ““ register, if a final ruling is passed refusing the request.

The Minister of Justice shall issue a decree concerning the procedures of recording and deleting the entries in the register.

Article: 33

Upon receiving the advice according to the provisions of the present law, the public prosecution shall take the necessary procedures for maintenance and preservation of the rights of the dormant gestation, the incompetent or absent person or the person with incomplete legal capacity, and to temporarily survey, and set bounds for their fixed or movable property and funds, their rights and their obligations, in a report to be signed by the persons concerned.

The public prosecution shall have the authority to take provisional or preventive proceedings as necessary to maintain and preserve these funds and property, and set the seals thereon. And, upon a warrant issued from the judge for temporary matters, it may transfer the moneys, securities, documents, jewels and other property as feared to be tampered with, to a bank safe, or to a secure place.

The public prosecution, when necessary, may authorize the trustee of the estate, the executor or director of the will, or any other trusted person to spend on the funeral of the deceased, and expend on those he/she is obligated to maintain and support, as well as manage the works that are feared to be affected with the lapse of time.

The public prosecution may reverse any decision it has taken in applying the provisions of this article.

Article: 34

The public prosecution, upon a substantiated authorization from the Summary Court Judge, may enter the houses and places required to be entered, in order to take the preventive proceedings prescribed in this law. It may also delegate a law officer for that, by virtue of a substantiated order determining the house or place.

Article: 35

It shall not be necessary to follow and apply the proceedings prescribed in the two previous articles if the fund required to be protected does not exceed three thousand pounds, pluralized by their plurality. In this case, the public prosecution shall delivery the funds and property to the person in charge of his/her affairs, unless the public prosecution decides to follow the aforesaid procedures according to the controls and terms prescribed in these two articles.

Article: 36

The request shall be raised to the competent court by the public prosecution or the persons concerned. In the latter case, the request thus raised shall comprise the data required by the procedure law to be fulfilled in the initiatory pleading, and shall enclose the documents supporting it. The court shall refer it to the public prosecution to record its remarks on it, in writing, within a date to be determined by it for that.

The public prosecution, where it is not concerned with issuing an order shall determine a session before the court to try and take cognizance of the request, coupled with the investigations carried out thereby and the conclusion it has reached, and serve notice about the session to the persons concerned who have not been announced about it before by the prosecution.

The court may delegate the public prosecution to assume any investigation procedure as ordered by the court.

Article: 37

The court and the public prosecution may call whoever it considers to be of benefit through hearing his/her statements in each investigation carried out thereby. If he/she fails to appear in the determined session, or refrains from giving his/her statements without legal justification, he/she may be sentenced to paying a fine not exceeding one hundred pounds, and if he/she does not attend, the court and public prosecution may order bringing him/her before it.

The court may relieve the convict from all or part of the fine if he gives an acceptable excuse.

Article: 38

If the public prosecution finds that the request for imposing the interdiction, stripping off, restricting, or discontinuing the guardianship, or establishing the absence of a person, will necessitate taking investigation procedures that will take up a period of time during which a right or property/fund is feared to be lost/forfeited, the public prosecution shall raise the matter to the court to authorize taking whatever preventive proceedings it decides to follow, or order the person against whom the request is submitted, from disposing of all or part of his/her property / funds, or restrict his/her power to manage them, or appoint a temporary director to assume the management of these funds/property.

Article: 39

The public prosecution shall submit to the court a substantiated note on the person it nominates to act as proxy for the incompetent or absent person, the person with incomplete legal capacity, or the one it nominates as judicial aid, within at most eight days from the date of advising it of the cause necessitating his/her appointment.

The court shall appoint the proxy or judicial aid after consulting the view of the persons concerned.

Article: 40

The public prosecution shall notify the guardian, custodian curator, proxy for the absent person, or the judicial aid or the temporary director of the decision issued for his/her appointment, if issued in his/her absence. A person refusing the appointment shall notify his/her refusal to the public prosecution, in writing, within eight days from the date of learning about the decision, otherwise he/she shall be responsible for the tasks assigned thereto, from the date of learning about them.

In case of refusing, the court shall appoint a replacement expeditiously.

Article: 41

Following issue of the court's ruling concerning the appointment of the proxy, the public prosecution shall conduct an inventory of funds and property of the incompetent or absent person, or the person with incomplete legal capacity, in a report to be issued in duplicate.

The provisions and proceedings as issued by decree of the Minister of Justice shall be followed in carrying out the inventory. All persons concerned and the minor who has completed fifteen years of age, if the public prosecution judges the importance of his/her presence, shall be called to attend the inventorying process.

The public prosecution may seek the assistance of people of experience in the process of inventorying and evaluating the property and funds, and estimating the debts, and delivering the property and funds, after completing the inventory, to the proxy appointed by the court.

Article: 42

The public prosecution shall raise the inventory report to the court to ratify it after ascertaining the validity of data set forth in it.

Article: 43

In raising the inventory report to the court to ratify it, the public prosecution shall attach a memorandum with its view in the following issues, according to each case:

1. Continuing in or exiting from the common ownership, and in the exploitation or liquidation of trading and industrial stores or professional offices, and the means of settling the debts, as well as the decisions enforcing the foregoing.
2. Estimating the permanent maintenance and alimony as necessary for the minor or interdicted person.
3. Applying the methods leading to the proper management and maintenance of the property and funds.

The court shall ratify the inventory report and expeditiously issue final decisions in the foregoing issues.

Article: 44

The court, even ex officio, may reverse any decision it has issued in the matters prescribed in the previous article, or any of the preventive proceedings if it views a reason calling for that.

The court's reversal of a decision previously issued by it shall not affect the well-intended third parties' rights which result from any agreement.

Article: 45

If the court appoints a liquidator for the estate, before ratifying the inventory report, the liquidator shall effect an inventory of the whole succession and draw up a detailed report on its rights and obligations, to be signed thereby as well as by the public prosecution member, the appointed proxy, and whoever attends among the adult successors.

If the liquidator is appointed following ratification of the inventory report, the proxy for the incompetent person, the person with incomplete legal capacity and for the absent persons, shall deliver the share of the latter in the succession to the liquidator by virtue of a report to be signed thereby as well as by the liquidator, the public prosecution member, and whoever attends among the adult successors, unless the liquidator decides to keep the whole or part of the property and funds under the hands of the proxy to maintain and manage it provisionally pending complete liquidation. He shall record that on the two copies of the inventory report and the aforementioned persons shall sign it.

After completing the liquidation, the proceeds derived from the succession shall be delivered to the proxy for the incompetent or absent person or the person with incomplete legal capacity, subject to the proceedings prescribed in the present law.

Article: 46

The proxy for the incompetent or absent person or the person with incomplete legal capacity, or the temporary director shall deposit with the clerks office of the court an account on his/her administration coupled with the documents in support thereof, within the legally determined date, and whenever the court demands it therefrom, within the date to be determined by it.

If the date lapses without the proxy submitting the account, the court may inflict thereon a fine not exceeding five hundred pounds. If the proxy repeats that., the court may inflict thereon a fine not exceeding one thousand pounds, without derogation to the other sanctions prescribed legally.

If the proxy submits the account and expresses for the delay an excuse which is accepted by the court, the court may then relieve him from all or part of the fine.

The court shall order temporarily to deposit the amounts which the proxy submitting the account does not object to being indebted with, provided that it would not be considered as a ratification of the account.

The court shall issue a final decision in the validity of the account submitted to it. The final decision as issued by the court concerning the account shall comprise an order binding the person submitting it to pay the amount remaining due thereby, and deposit it with the treasury of the court within a date to be determined thereby.

Article: 47

The public prosecution may authorize the proxy for the incompetent or absent person or the person with incomplete legal capacity, to pay to any of them from the liquid money an amount not exceeding one thousand pounds without requesting permission from the court, which amount may be increased 1: to three thousand pounds by a decision from the competent Advocate General, only once every six months.

Article: 48

A request for recovering the guardianship, or lifting the interdiction or the judicial aid, custody, or guardianship, or re-authorizing the minor or interdicted person, shall not be accepted except after the lapse of one year from the date the final decision refusing a former request was issued.

Article: 49

Persons concerned may have access to the files, books, registers, and papers prescribed in the previous articles. Any person may also have access to the registers. In both cases, copies or certificates comprising the contents of what was recorded therein by order of the court or the public prosecution shall be delivered to any of them.

Article: 50

Costs of surveying and setting bounds for the property and funds, placing the stamps, and effecting the inventory, as well as the costs of administration shall have a lien right in rank of the judicial expenses.

Article: 51

The court may order charging all or some of the fees or expenses to the public treasury.

PART 4

Court Decisions and Rulings and Appealing Against Them

First: Issuing the decisions:

Article: 52

Rules concerning court judgements shall apply to decisions issued in matters of trusteeship on funds and property.

Article: 53

The court shall deposit with the clerks office the causes of final decisions issues in matters of interdiction, judicial aid, guardianship, absence of persons, accounts, permission to dispose, and removal of the curator, as well as the decisions issued according to the provision of article (38) of this law, within a period of eight days from

the date they are passed if they are issued from a Summary Court, and fifteen days if issued from others.

With the exception of other decisions passed in matters of trusteeship on funds and property, the court may issue the justifications for these decisions, or content itself with signing the session minutes that comprise the pronounced judgement.

Article: 54

Decisions issued initially from the Court of First Instance in matters of trusteeship on funds and property shall be enforceable, even when appealed against, with the exception of those issued in the following matters:

1. The Account.
2. Lifting the interdiction and ending the judicial aid.
3. Restituting the guardianship.
4. Re-authorizing the minor or interdicted person for disposal or management.
5. Establishing the full age after the decision on continuing the guardianship or curatorship is issued.
6. Permission for disposal, as issued to the proxy for the incompetent or absent person or the person with incomplete legal capacity.

The court trying the appeal may order the execution to be stopped temporarily pending issue of a final decision in the contestation.

Article: 55

The court's decision shall be final if issued penning litigation in respect of endowment disposals, or in request for borrowing or leasing for a long period or for changing the features, or also in respect of conversion requests or the sale of entailed realty for payment of a debt, if the subject of the request or the value of the realty subject of disposition does not exceed five thousand pounds.

Second: Appealing against rulings and decisions:

Article: 56

Means of objecting against the rulings and decisions prescribed in the present law shall be the following: appeal, cassation, petition for reconsideration.

Where no special provision is prescribed in the following articles, the rules and proceedings prescribed in the Civil and Commercial Procedure law shall be followed.

Article: 57

The public prosecution may in all cases contest, by means of appealing against the rulings and decisions issued in the prosecution where the law mandates or allows its intervention therein. The provisions prescribed in the Civil And Commercial Procedure law shall be followed in connection with the contestation.

Article: 58

The court of appeal shall try the case in its condition as it was before the ruling subject of the appeal was issued, only concerning the part in respect of which the appeal was lodged.

However, while keeping the original requests unchanged, their causes may be changed or added to. New requests may also be made providing they shall be complementing the original requests, ensuing therefrom or indivisibly connected therewith.

In both cases, the court of appeal shall grant the litigant a suitable time for replying to the causes or new requests.

Article: 59

Appealing against a magisterial judgement issued according to the provision of article (10) of the present law, shall result in tabling before the court of appeal the merits determined by this ruling. And, until this court pronounces its final judgement, it may issue a temporary enforceable judgement concerning the right of seeing, determining a maintenance/alimony, or modifying more/less the alimony ruled by the contested judgement.

Article: 60

Subject to the rights of bona fide third parties, appealing the ruling or decision issued in matter of trusteeship on funds and property shall be considered an appeal for other

matters that have not been subject of earlier appeal, and shall be tied up to the appealed ruling or decision in a way rendering a settlement in the appeal practically impossible without resettlement of these matters.

Article: 61

The period for lodging the appeal shall be sixty days for those having no domicile in Egypt, without adding a period for distances.

Article: 62

The litigants as well as the public prosecution may take an objection for cassation in the rulings passed by the courts of appeal.

They may also traverse, in cassation, the decisions issued by these courts in matters of interdiction, absence, judicial aid, removal of the custodian, and stripping off, discontinuing, limiting, or recovering the guardianship, and continuing the guardianship or tutorship, and the account.

Article: 63

Rulings issued for cancellation or annulment of marriage contracts, or for divorce or enforcing the divorce, shall not be executed except with the lapse of the periods set for traversing such rulings in cassation. If these judgements are traversed in cassation within the legal period, their non-execution shall continue until a final decision is issued in the contestation.

The President of the court or his delegated designee shall determine a sitting for examining the contestation direct before the courts within a date not exceeding sixty days from the date of depositing the contestation declaration in the clerks office of the court or the date it reaches the office. The public prosecution shall submit a memorandum with its view within at most thirty days before the date of the sitting determined for hearing the contestation.

If the court reverses the rulings, it shall then issue a final decision in the merits of the case.

Article: 64

No petition may be submitted for re-examination of matters of trusteeship on property and funds except for the re-examination of final decisions issued in the following matters:

1. Imposing the interdiction, determining the judicial aid, or establishing a person's absence.
2. Confirming the elected custodian, or the proxy for the absent person.
3. Removing or limiting the power of the custodian, guardian, and proxy.
4. Stripping off, discontinuing or limiting the tutorship.
5. Continuing the guardianship or tutorship on the minor.
6. Issuing a final decision in the account.

PART 5

Executing the Rulings and Decisions

Article: 65

The rulings and decisions issued for handing over the young child, or seeing him, or for the costs, wages, or expenses, and others in like status shall be enforceable by force of law and without bail.

Article: 66

The rulings and decisions issued for embracing, safekeeping and the mandatory delivery of the young child may be executed.

The proceedings prescribed in the law shall be followed in executing the judgements pronounced in this respect.

In all cases, the procedures of execution and entry to the houses shall be according to the orders of the executor judge.

Re-execution may take place, with the same deed of execution, whenever so necessary.

Article: 67

A ruling issued for seeing the young child shall be executed in one of the places to be determined by a decree of the Minister of Justice, following approval of the Minister of

Social Affairs, unless the guardian for nurture in whose favor the judgement is issued agrees on another place.

In all cases, the place shall fulfil all conditions filling the child's heart with peace and reassurance.

Article: 68

The clerk's office of the court issuing the ruling or decision shall add the self-executing formula thereon, if the ruling is enforceable.

Article: 69

The enforcement of the ruling shall take place by means of the bailiffs or the administrative authority.

The Minister of Justice shall issue a decree concerning the procedures of enforcing the rulings and decisions passed for handing over, embracing, or seeing the young child, or for his habitation, and the persons assigned such enforcement.

Article: 70

Whenever a litigation is brought before the public prosecution concerning the tutelage of an infant in the age of woman guardianship, or if the tutelage of the infant is requested by a woman in whose favor a ruling will most likely be issued, the public prosecution, after

carrying out a suitable investigation, ma). issue a substantiated decision for delivering the young child to the woman with whom the child's interests will be realizable.

The decision shall be issued from at least a director of prosecution, and shall be enforceable forthwith until a ruling of the court of jurisdiction shall be issued in the subject of the infant's tutelage.

Article: 71

A family insurance system shall be established, including within its purposes the guaranteed enforcement of issued rulings which determine a maintenance/alimony for the wife, the divorcee, the children or relatives. Nasser Social Bank shall be supervising the implementation of the said system.

A decree of the Minister of Justice shall be issued concerning the rules, proceedings and finance methods of this system, following approval of the Minister of Insurance.

Article: 72

Nasser Social Bank shall pay the alimonies, fees and other like payments as ruled by the court, to the wife, divorcee, children, or parents, according to the rules and procedures to be issued by decree of the Minister of Justice following approval of the Minister of Insurance.

Article: 73

The ministries, governmental departments, local government units, public authorities, public sector units, the public enterprise sector, the private sector entities, the National Social Insurance Authority, the Insurance and Pensions Department for the Armed Forces, the professional associations/syndicates, and other quarters, upon the request of Nasser Social Bank to which is attached a true copy of the executive copy of the ruling and an indication of completing the announcement, shall deduct the amounts within the limits distrainable according to the provision of article (76) of the present law, from the salaries and like payments, as well as the pensions, and shall deposit them in the bank's treasury' upon receiving the request, without need for another proceeding.

Article: 74

If the condemned is other than the salaried, wage earners, pensioners, and the like, he shall deposit the judgement debt amount in the treasury of Nasser Social Bank or one of its branches, or the Social Affairs unit within the circuit of which his home address is located, in the first week of each month, once the Bank has notified him to proceed with settlement of his debt,

Article: 75

Nasser Social Bank shall have the right to get settlement of the costs, fees, and the like as paid thereby, as well as all actual expenditures outlaid by it" due to the condemned debtor's refrain from paying them.

Article: 76

In exception to the provisions prescribed by the laws concerning the rules on distraining the salaries, wages, or pensions, and other earnings in like status, the ceiling of the amount distrainable thereof, in settlement of an alimony debt, wage, or other like debts to the wife, divorcee, children, and parents, shall be within the limits of the following percentages:

- A) 25% to the wife or divorcee, and this percentage shall be 40% in case they are more than one.
- B) 25% to the parents or either one.
- C) 35% to the two or less than two children.
- D) 40% to the wife or divorcee and one or two children and the two parents or either one.
- E) 50% to the wife or divorcee and more than two children, and the two parents or either one.

In all cases, the percentage distrainable shall not exceed (50%) to be divided among the beneficiaries, in the ratio as ruled for each of them.

Article: 77

In case of multiplicity of debts, priority shall go to the wife's or divorcee's alimony debt, then the children's alimony, and next the parents' alimony, then the relatives' alimony, and last the other debts.

Article: 78

Posing an execution complication against the alimony rulings referred to in the previous article shall not result in suspending the execution procedures.

Article: 79

Without derogation to any stricter penalty prescribed in the Penal Code., or in any other law, a penalty of detention for a period of not less than six months shall be inflicted on whoever manages to obtain any amounts from Nasser Social Bank in execution of a ruling or order issued by virtue of the provisions of this law., based on phony or bogus procedures or evidences while being aware of that.

The penalty shall be that of detention for a period not exceeding two years. to be inflicted on whoever manages to obtain from Nasser Social Bank amounts undue to him/her, while being aware of that, along with forcing him/her to refund these amounts.

Appendix 5

Interview Questions for Women Activists:

Significance of the Personal Status Law Reforms in Egypt

- Why has reform of PSL preoccupied women in the Middle East, specifically Egypt, for centuries?
- What is marriage? How is it viewed? What rights does it give to women? What rights does it take away from women?
- Why was there no problem with respect to PSL prior to the 19th century? Or did it exist but in a different form?
- What changes made the articulation of demand for reform possible?
- What were the issues of contention and how did reform of PSL become important?
- How did reform to PSL take place in Egypt both historically and today?
- What were the different debates regarding PSL? (both by women activists and male scholars and Islamists?)
- As women activists yourselves, what do you believe are the pros and cons of the Personal Status Law of 2000?
- What do you think is missing from these reforms?
- Do you feel this new PSL 2000 has done a service to Egyptian women? And does its effect differ on women of different classes and strata?
- Do you believe that the new tide of Muslim feminist discourse (using the language and rationality of Islam and reinterpretation of scripture) has had anything to contribute in persuading the government to amend the previous PSL law?

- If yes, does this mean that we can hope for more progressive changes in women's rights within the PSL in the future?
- And if no to the previous question, then what path do you think Egyptian women should take to keep pushing for more PSL reform (such as the women's right to travel without the consent of her husband for instance)?

Appendix 6

Questions to Grassroots Women:

- I would like to know how the new law has affected your life or the lives of those around you?
- Has it had a liberating effect in terms of facilitating a woman's right to ask for divorce?
- Knowing that a woman has more rights in terms of divorce, has this shifted the balance of power in your family or affected your relationship with your husband in any way?
- Do you know of who have reverted to the use of *Khulu'*?
- Has *Khulu'* empowered women?
- How financially viable is it for a woman to use *Khulu'* in your opinion?
- How Islamically correct do you think this new PSL is?
- Do you believe it has precedence in Islamic tradition and *Sunna*?
- What do you think women's rights in Islam are?
- Do you think Islam is a liberating religion for women?
- What other changes would you wish to see with regards to women's marital rights?

Appendix 7

Sample Letters Requesting Interviews and Information

To:

From: Leila Al-Atraqchi, Ph.D. Humanities Candidate
Concordia University, Montreal, Canada

Date: Feb. 17, 2002

Subject: Request for interview towards my dissertation

Project Title: The Women's Movement and the Mobilization for Legal Change in
Egypt: A Century of Personal Status Law Reform

First allow me the chance to thank you for your attention on this matter.

My name is **Leila Atraqchi**. I am a Ph.D. candidate from the Middle East, completing her Ph.D. thesis on feminism and women's rights in Egypt at the Humanities Department in Concordia University. The contact telephone numbers are: (home) 905-281-9536 and (cell) 416-274-8534.

A. Purpose of Research:

The aim of the research is to document women's experiences with regards to the reform of the Personal Status Law in January 2000. Has the new law put women at an advantage or disadvantage? I am also interested to know your opinion of the extent that the Personal Status Law protects women as marriage partners and mothers. An ultimate goal of this research is to document the different kinds of problems that women face with

regards to their marriages, as well as family law (a.k.a Personal Status Law) and family courts. I wish to examine the efficiency of the reformed Personal Status Law in improving women's legal standing in the marriage union. I hope to bring these issues to the attention of public actors as well as international scholars to encourage further reform of the Personal Status Law.

B. Conditions of Participation:

I guarantee complete confidentiality and absolute anonymity for the participants of the study. Nonetheless, it goes without saying that you are free to stop participating (talking to me) at any point for any reason.

I am also enclosing a list of questions as guidelines to my area of interest. Feel free to answer as many as you wish. I will forever be indebted for your time.

Please feel free to contact me by phone in Canada at: (home) 905-281-9536 and (cell) 416-274-8534 or by email at leilaa@hotmail.com

Sincerely,

Leila Al Atrachchi

**The Women's Movement and the Mobilization for Legal Change in Egypt: A Century of
Personal Status Law Reform**

Glossary

Glossary

Transliteration here has been a challenge but I have tried to be as consistent as possible, while attempting to allow for the colloquial as well as literary usages. I used the system adopted by the International Journal of Middle East Studies for the Arabic. Diacritics are omitted, but I use ' to represent the *hamza* as in mar 'a. I drop the terminal *hamza* from words such as '*ulamma*. The plural of words in languages that have 'broken' plurals is formed by adding an's' to the singular, except in cases such as '*ulamma*, in which the transliterated plural form has become standard. When persons or writers are known to have a preferred spelling of their name in a European language, I generally use this form. All Arabic words in the text are italicized.

Ahl al-kitab: people of the Book, the adherents of a revealed religion.

Ahl al-'ilm: professional theologians (in Islam).

Ahwa: traditional coffee house where men congregate to drink tea and coffee, smoke water pipes and play board and card games.

Al-Azhar: Oldest mosque and religious university in Cairo in the Arab world.

Al-Da'wa: The Call; Title of Islamist magazine edited by a member of the Muslim Brotherhood: 'Umar Al- Tilmisani.

Al-Mar'a Al-Gedida: New Woman Research Center.

Al-Mawed: Popular women's magazine.

Al-Mut'a: A type of alimony for a divorced wife.

Al-Shaab: Newspaper of the Islamist-oriented Labor Party.

Al-Shabaka: Women's and lifestyle magazine.

Al-Takfir wal Hijra: Name of an Islamist group meaning excommunication and migration.

Al- Watan Al-Arabi: Title of a magazine meaning the Arab Nation.

Aya (pl. *ayat*): sign; Quranic verse.

Ayma: List of wife-owned household furniture which the husband signs before marriage.

Bint Al-Ard: Daughter of the Earth; name of a feminist, non-governmental organization.

Dar Al-Ifta': Name of the institution where *fatwas* are issued; where the Grand Mufti works.

Da'wa: message.

Fatwa: Formal Religious legal opinion; *fatawi* (plural).

Fiqh: Islamic jurisprudence. *Fiqh* means understanding, comprehension, knowledge, and jurisprudence in Islam. It refers to the legal rulings of the Muslim scholars, based on their knowledge of the shari'a and as such is the third source of rulings.

Fitna: Seduction which leads to sedition. Also civil strife.

Gamiya: saving clubs used by women in popular districts.

Hadith: Prophetic tradition, narrative relating deeds and utterances of the Prophet and his Companions.

Hajj: pilgrimage.

Halal: lawful, permissible.

Haram: forbidden, prohibited, unlawful.

Hay shaabi (in the single form), or *ahya' shaabiya* (in the plural), denoting popular quarters.

Hijab: A veil worn to cover hair, arms a legs and may be varied and color. Also means partition, separation, or screen.

Hijra: Migration. More specifically refers to the Prophet's migration from Mecca to Medina in 622 A.D.

'ibada: human worship of God, the service of the slave ('abd) to his master.

'idda: legally prescribed period of waiting during which a woman remarry after being widowed or divorced.

'Idda: A period of three months following divorce wherein a wife is also entitled to alimony.

Ijtihad: Independent reasoning; independent interpretation of scripture; independent, scripture-based judgment in a legal or theological question

Infitah: Sadat's economic open door policies initiated in the 1970s.

Islami: Islamist term used as a self-definition by some young Islamists.

'Isma: Right to divorce.

Isnad: record of authentication of a tradition.

Ittihad Al-Nissa'i Al-Taquadummi: Progressive Women's Union, affiliated with the leftist Tagammu' party.

Ittihad Ishtiraki: Socialist Union; name of the ruling party during Nasser's time.

Jahili or Jahiliyya: Term used to refer to pagan, pre-Islamic times; ignorant times; also used refer to non-Islamic actions or era.

Jama'at al-Sayyidat Al-Muslimat: Muslim Women's Association.

Jama'at Islamiyya / al-Jama'at: Name of an Islamist group, used interchangeably.

Jihad: Struggle in the name of God; holy war; name of an Islamist group. Also used interchangeably with al-Jihad.

Kafir: Non-believer.

Kol Al-Nas: Popular women's magazine.

Kalam Al-Nas: Lifestyle magazine.

Lajnat Al-Difa' 'an Huquq Al-Mar'a Wal-Usra: the Committee for the Defense of the Rights of the Woman and the Family.

Madani: civil.

Madhhab (pl. *madhahib*): orthodox rite (school) of Islamic jurisprudence (*fiqh*). *Madhab* literally means school of thought. There are four *Sunni* schools of thought: Hanafi, Maliki, Shafie and Hanbali. Differences existed from the very beginning not only between the two sects of Islam, *Sunni* and *Shi'a*, but also among the different schools of thought of each tradition, and indeed within the same school of thought.

Madhun: officiating Muslim cleric.

Mahr: dower, bridal money.

Mokadam sadak: amount given to the wife prior to marriage.

Moakhar sadak: the amount to be paid to the woman in case of divorce or in case of the death of her husband.

mu'adhdhin: caller to prayer.

mu'amalat: human relations, conduct of people toward each other.

Muhajjaba: Woman wearing the *hijab*.

Munaqqaba: Woman wearing the *niqab* (see below).

Murtadd: An apostate or renegade from Islam.

Muslimun: Muslims.

Muta'aslimun: Term coined by Laila Al-Shall to refer to Islamists as those who 'put on' Islam.

Nashez: refers to a wife that is disobedient to her husband.

Niqab: Very severe form of veil, usually black in color, entirely shrouds the head and body leaving only the eyes exposed.

Qadiyyat al-Mar'a: The women's rights issue.

Qanun al-'Ayb: Law of Shame.

Qanun al-'Uqubat: Criminal law.

Qawama: Male control or leadership over women.

Rabitat Al-Mar'a Al-Arabiya: the Alliance for Arab Women.

Ruz Al-Yusef: Name of a longstanding leftist weekly magazine.

Sanad: chain of authorities on which a tradition is based.

Sharia: refers to the revealed and the canonical laws of Islam which are derived from two major legal resources of Islamic jurisprudence: (1) the Quran, the holy book of Islam which is believed by Muslims to be the direct word of God; and (2) the *Sunna*. General principles of *Sharia* are supposed to govern such matters as marriage, divorce, maintenance, paternity and custody of children for more than a billion Muslims around the world. This does not mean that identical principles apply everywhere or in the same manner. Clear variations exist not only because of significant theological, legal, and other differences among and within Muslim societies and communities, but also because *Sharia* principles are often in practice modified by customary practices, or as a matter of state policy.

Shudhudh: Deviance, used when referring to homosexuals.

Shura: consultation.

Sunna: means habit, practice, or action, norm and usage sanctioned by tradition. It refers to the sayings, practices and habits of Prophet Muhammad, whom Muslims believe is the final messenger of God. The *hadith* are reports of the *sunna*. The *sunna* is one of the two major legal sources of jurisprudence in Islam.

Suq: market.

Tafsir: exegesis, interpretation.

Tajammu': Leftist Progressive Unionist political party.

Tarha: Head scarf.

Tatabarraaj: Used by Islamist Shaykh Al-Ghazali to refer to a woman who does not veil.

Ulama: Religious scholars.

Umma: Islamic/Muslim nation.

Umm al-Dunya: Name of the Nasserist Party's Women's Committee Newsletter, meaning Mother of the World.

Urfi: Used in reference to unofficial marriage.